TITLE 38—VETERANS' BENEFITS

This title was enacted by Pub. L. 85–857, § 1, Sept. 2, 1958, 72 Stat. 1105

Part		Sec.
I.	**General Provisions**	**101**
II.	**General Benefits**	**1101**
III.	**Readjustment and Related Benefits**	**3001**
IV.	**General Administrative Provisions**	**5100**
V.	**Boards, Administrations, and Services**	**7101**
VI.	**Acquisition and Disposition of Property**	**8101**

AMENDMENTS

2002—Pub. L. 107–330, title III, § 308(g)(1)(B), Dec. 6, 2002, 116 Stat. 2828, substituted ''5100'' for ''5101'' in item for part IV.

1991—Pub. L. 102–83, § 5(b)(2), Aug. 6, 1991, 105 Stat. 406, substituted ''1101'' for ''301'' in item for part II and ''3001'' for ''1401'' in item for part III.

Pub. L. 102–40, title IV, §§ 402(c)(2), 403(e)(2), May 7, 1991, 105 Stat. 239, 240, substituted ''5101'' for ''3001'' in item for part IV, ''Boards, Administrations, and Services . . . 7101'' for ''Boards and Departments . . . 4001'' in item for part V, and ''8101'' for ''5001'' in item for part VI.

1986—Pub. L. 99–576, title VII, § 702(18), Oct. 28, 1986, 100 Stat. 3302, substituted ''1401'' for ''1501'' in item for part III.

TABLE I

(Showing Disposition of All Sections of Former Title 38 by 1958 Revision)

Title 38 Former Sections	*Title 38 New Sections*
1–3	Rep.
4	(See former 11e)
5 to 11a–3	Rep.
11b to 11c–1	Rep.
11d, 11d–1	Rep.
11e to 11*l*	Rep.
12, 12a	Rep.
13–13g	Rep.
14–14e	Rep.
15–15n	Rep.
16–16j	Rep.
17–17j	Rep.
21	Rep.
23–26c	Rep.
27–32a	Rep.
33–39a	Rep.
41–49a	Rep.
50–61	Rep.
71–72a	Rep.
73–77	Rep.
91–97	Rep.
101–104	Rep.
111–116	Rep.
121–125	Rep.
126	T. 18 § 289
127–129	Rep.
130	T. 18 § 290
131–134	Rep.
151–155a	Rep.
156–168b	Rep.
169–179	Rep.
191–206	Rep.
221–230	Rep.
231	(See former 179)
232	Rep.
238–238e	Rep.
241–252e	Rep.
253, 254	Rep.
261, 262	Rep.
264–277	Rep.

TABLE I—CONTINUED

Title 38 Former Sections	*Title 38 New Sections*
281–285	Rep.
286	(See former 325a)
287–291b	Rep.
291c	(See former 326b)
291d–294	Rep.
311, 311a	Rep.
312–314	Rep.
321–321c	Rep.
322–324a	Rep.
325, 325a	Rep.
326–326c	Rep.
327–332	Rep.
341	(See former 33)
341a	(See former 274)
341b	(See former 275)
341c	(See former 291b)
341d	(See former 321c)
341e	(See former 326c)
341f	Rep.
351, 351a	Rep.
352–357b	Rep.
358 to 364q–1	Rep.
364h, 364j	Rep.
365 to 365b–1	Rep.
365c–365h	Rep.
366–370*l*	Rep.
371–374a	Rep.
375–379	Rep.
381 to 381–2	Rep.
381a–381f	Rep.
391–394	Rep.
421–423	Rep.
424	753
424a–438m	Rep.
439–441	Rep.
442	756
443	755
444	Rep.
445	784(a)–(h)
445a	Rep.
445b	784(i)
445c	Rep.
445d	784(b), (h)
446	Rep.
447	754
448–452	Rep.
453	3102
454, 454a	Rep.
455–459f	Rep.
460	Rep.
461	Elim.
462	(See former 557)
471 to 471a–5	Rep.
472 to 472b–1	Rep.
472c–472e	Rep.
473, 473a	Rep.
474–483a	Rep.
484–488a	Rep.
489 to 501a–1	Rep.
501b–505a	Rep.
506–507b	Rep.
508	Rep.
509, 509a	Rep.
510	Rep.
511	741, 743, 757(a), 782
511a	Rep.
512	742, 743, 744(a), (b), 745, 749–752
512a	Rep.
512b	748
512b–1	744(c)
512c	758
512d	757(c)
513	757(b)
514	Rep.
515	759(a)
516–516b	Rep.
517	760
518	747
531–539	Rep.
551–555a	Rep.

TABLE I—CONTINUED

Title 38 Former Sections	*Title 38 New Sections*
556, 556a	Rep.
557	Rep.
571–576	Rep.
581–582c	Rep.
583	Rep.
591, 592	Rep.
601–603	Rep.
611–613a	Rep.
614–618e	Rep.
619–623	Rep.
631, 632	Rep.
641–647a	Rep.
648–650	Rep.
661–670	Rep.
681–683	Rep.
686–686c	Rep.
687–687c	Rep.
688–688b	Rep.
691–691g	Rep.
693–693g	Rep.
693h	T10 § 1553
693i	T10 § 1554
694(a)	1801(a), 1802(a), (b), 1803(a)(1), (b)
694(b)	1803(b)–(d)
694(c)	1802(c)
694(d)	1802(d), (f)
694(e)	1802(d)
694(f)	1802(e)
694(g)	1803(a)(2)
694a	1810
694b	1812
694c	1813
694c–1	1822
694d	212(a), 1804(a)–(c)
694e	T. 7 § 1001(b)(2)
694f	Rep.
694g	1816, 1817
694h	1814
694i	1815
694j	1820(a)–(c)
694k	1821
694*l*	1810(a), (b), 1811(a)–(j)
694m	1811(k), 1823
694n	1804(d)
694*o*, 694p	Rep.
695	2010
695a	2011
695b	2012
695c	2013
695d	Rep.
695e	2014
695f	Rep.
696 to 696f–1	Rep.
696g–696m	Rep.
697(a)	Rep.
697(b)	616
697a, 697b	Rep.
697c	101(2)
697d, 697e	Rep.
697f	109(b)
697g	1510, 1824
700, 701	Rep.
701a	1502(a), (c)(2), (3), (d)
702–703c	Rep.
704, 704a	Rep.
705–706c	Rep.
707–715a	Rep.
716–729b	Rep.
730–750	Rep.
Vet. Reg. No. 1(a), Pts. I–VI, VIII, IX.	Rep.
Pt. VII	217, 351, 1501–1508, 3013, 3107(c)
Vet. Reg. Nos. 2–12	Rep.
801(a)	Rep.
801(b)	101
801(c)	Rep.
801(d)–(f)	701
802(a)	703
802(b), (c)(1)	Rep.
802(c)(2)	719(b)
802(d)	Rep.
802(e)	702
802(f)	704–707
802(g)	701(3), 716(b), 717(a)
802(h)	716(a), (b)
802(i)	716(d)
802(j), (k)	716(e)
802(*l*)	716(f)
802(m)(1)	708
802(m)(2)	Rep.
802(n)	712
802(*o*)	Rep.
802(p)	709
802(q)	703
802(r)	713
802(s)	Rep.
802(t)	717(b), (c)
802(u)	717(d)
802(v)(1)	715, 719(b)
802(v)(2)	721(d)

TABLE I—CONTINUED

Title 38 Former Sections	*Title 38 New Sections*
802(w)	710
802(x)	783
802(y)	Rep.
802(z)	714
803	703, 741
804	719(a)
805	720
805a	786
806	782
807	721(a)–(c)
808	210–212, 785
809	3102
810	108
811	Rep.
812	711
813	787(b)
814	3502(b)
815	787(a)
816	718
817	784(a)–(h)
818–820	Rep.
821	722(a)
822	723(a), (c)
823	724
824	781
851–858	Rep.
901	1601(c)
911	1601(a)
916	1610
917	1612
918	1613
919	1611
926	1620
927	1621
928	1622
929	1623(a), (b)
930	1624
931	1623(c)
932	1625
933	1626
941	1631
942	1632
943	1633
944	1634
951	1641
952	1642
953	1643
954	1644
955	1645
961	1651
962	1652
963	1653
964	1654
965	1655
966	1656
971(a)	1661(a)
971(b)	213
971(c)	111, 1661(b)
972	1662(a)
973	1663
974	1664
975	1665
975a	Rep.
976	1666
977	1667
978	1668
979–981	Rep.
982	1669
983, 984	Rep.
991	2001
992	2002
993	2003
994	2004
995	2005
996	2006
997	2007
998	2008
999	2009
1011	2101
1012	2102
1013	2104
1014	2103
1015	2105
1016	Rep.
1031	1701(d)
1032	1701(a)–(c)
1033(a)	1761(a)
1033(b)	213
1033(c)	111, 1761(b)
1033(d)	1662(b)
1033(e)	1761(c)
1033(f)	1761(d)
1034	1762
1035	1763
1036	1764
1037	1765
1038	1766
1039	1767
1040	1768
1041–1045	Rep.

TABLE I—CONTINUED

Title 38 Former Sections	*Title 38 New Sections*
1051	1710
1052	1711
1053	1712
1054	1713
1055	1714
1061	1720
1062	1721
1063	1722
1064	1723
1065	1724
1066	1725
1067	1726
1068	1731
1069	1732
1070	1733
1071	1734
1072	1735
1073	1736
1074	1737
1081	1740
1082	1741
1083	1742
1084	1743
1101(1)	101(1)
1101(2)(A)–(C)	Rep.
1101(2)(D)	403
1101(2)(E)	Rep.
1101(3)	101(27)
1101(4)	101(21)
1101(5)	101(22)
1101(6)(A)	101(23)
1101(6)(B)	106(d)
1101(6)(C)	101(22), (23)
1101(7)	101(4), (5)
1101(8)	101(3), 404
1101(9)	101(25)
1101(10)(A)	401(1)
1101(10)(B)	403
1101(11)(A)	402(a)
1101(11)(B)	402(b)
1101(11)(C)	402(c)(2)
1101(11)(D)	421(b)
1101(11)(E)	402(c)(1)
1101(11)(F)	421(a)
1101(12)	106(c)
1102	3005
1103(a)	412
1103(b)–(d)	422
1111	410(a)
1112	411
1113	413
1114	414
1115	415
1116	416
1117	410(a)
1118	417(b)
1119(a), (b)	Rep.
1119(c)	410(b)
1119(d)	3104(b)(2)
1119(e)	101(3)
1120	Rep.
1131, 1132	Rep.
1133(a)	Rep.
1133(b)	423
1133(c)–(e)	Rep.
1134	Rep.
2101(1)–(9)	101(1)–(9)
2101(10)	501(1)
2101(11)	Rep.
2101(12)–(18)	101(11)–(17)
2102	102(a)
2103	103(a), (b)
2104	104
2105	105
2106	101(18)
2107	102(b)
2121	111
2122	108
2123	3303
2124(a)	101(21)(D)
2124(b)	106(a)
2125	107
2126	3109
2127	109(a)
2128	110
2141–2150	Rep.
2201	201
2202	202
2210	210
2211	211, 785
2212	212
2213	214
2214	215
2215	216
2216	3304
2230	230
2231	231
2232	232
2233	233
2234	234

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Title 38 Former Sections	*Title 38 New Sections*
2235	Rep.
2301	301
2302	302
2310	310
2311	106(b)
2312	311
2313	312
2314	313
2315	314
2316	315
2321	321
2322	322
2331	331
2332	106(b)
2333	332
2334	333
2335	334
2336	335
2337	336
2341	341
2342	342
2343	343
2351	351
2352	352
2353	353
2354	354
2355	355
2356	356
2357	357
2358	358
2401	501
2402	502
2403	503
2404	504
2405	505
2410	510
2411	511
2412	512
2421	521
2422	522
2423	523
2431	531
2432(a)–(d)	532
2432(e)	501(3)
2433	533
2434	534
2435	535
2436	536
2437	537
2441	541
2442	542
2443	543
2444	544
2445	545
2460	560
2461	561
2462	562
2501	601
2502	602
2510	610
2511	611
2512	612
2513	613
2514	614
2515	615
2521	621
2522	622
2523	623
2524	624
2525	625
2526	626
2527	627
2531	631
2532	632
2533	633
2534	634
2601	801
2602	802
2603	803
2604	804
2605	805
2701	1901
2702	1902
2703	1903
2704(a)	1904
2704(b)	Rep.
2705	1905
2801	901
2802	902
2803	903
2804	904
2805	905
2901	3001
2902	3002
2903	3003
2904	3004
2910	3010
2911	3011
2912	3012
2920	3020

TABLE I—CONTINUED

Title 38 Former Sections	*Title 38 New Sections*
2921	3021
2922	3022
3001	753, 3101
3002	3102
3003	3103
3004	3104
3005	3105
3006	3106
3007	3107(a), (b)
3008	3108
3101	3501
3102	3502
3103	3503
3104	3504
3201	3301
3202	3302
3211	3311
3212	3312
3213	3313
3301	4001
3302	4002
3303	4003
3304	4004
3305	4005
3306	4006
3307	4007
3308	4008
3401	4101
3402	4102
3403	4103
3404	4104
3405	4105
3406	4106
3407	4107
3408	4108
3409	4109
3410	4110
3411	4111
3412	4112
3413(a)	4113
3413(b), (c)	Rep.
3414	4114
3415	4115
3501	3201
3502	3202
3503	3203
3504	3204
3601	3401
3602	3402
3603	3403
3604	3404
3605	3405
3701	5001
3702	5002
3703	5003
3704	5004
3705	5005
3711	5011
3712	5012
3713	5013
3714	5006
3715	5014
3716	213
3801	5101
3802	5102
3803	5103
3804	5104
3805	5105
3901	5201
3902	5202
3903	5203
3904	5204
3905	5205
3906	5206
3907	5207
3908	5208
3909	5209
3910	5210
3920	5220
3921	5221
3922	5222
3923	5223
3924	5224
3925	5225
3926	5226
3927	5227
3928	5228
4001	4201
4002	4202
4003	4203
4004	4204
4005	4205
4006	4206
4007	4207
4008	4208

TABLE II

(Showing Disposition of Former Sections of Title 38 by 1991 Renumbering)

Title 38 Former Sections	*Title 38 Renumbered Sections*
201	Rep. See 301(b)
202	Rep. See 302
203	Rep. See 313
210(a)	Rep.
210(b)(1)	Rep. See 303
210(b)(1), (2)	Rep. See 510
210(b)(3)	Rep. See 711
210(c)(1)	Rep. See 501(a), (b)
210(c)(2), (3)	Rep. See 503
210(d)	Rep. See 304
211(a)	Rep. See 511
211(b)	Rep. See 505
212	Rep. See 512
213	Rep. See 513
214	Rep. See 529
215	Rep. See 525
216	Rep. See 521
217	Rep. See 522
218(a)	Rep. See 901
218(b)	Rep. See 902
218(c)	Rep. See 903
218(d)	Rep. See 904
218(e)	Rep. See 905
219	Rep. See 527
220	Rep. See 523
221	Rep. See 541
222	Rep. See 542
223(a), (b)	Rep. See 501(c), (d)
223(c)	Rep. See 502
224	Rep. See 515(a)
230(a), (b)	Rep. See 314, 315
230(c)	Rep. See 316
231	Rep. See 701
232	Rep.
233	Rep. See 703
234	Rep. See 705
235	Rep. See 707
236	Rep. See 515(b)
240	Rep. See 7721
241	Rep. See 7722
242	Rep. See 7723
243	Rep. See 7724
244	Rep. See 7725
245	Rep. See 7726
246	Rep.
301	1101
302	1102
310	1110
311	1111
312	1112
313	1113
314	1114
315	1115
316	1116
321	1121
322	1122
331	1131
332	1132
333	1133
334	1134
335	1135
336	Rep.
337	1137
341	1141
342	1142
343	Rep.
351	1151
352	1152
353	1153
354	1154
355	1155
356	Rep.
357	1157
358	1158
359	1159
360	1160
361	1161
362	1162
363	1163
401	1301
402	1302
403	Rep.
404	1304
410	1310
411	1311
412	1312
413	1313
414	1314
415	1315
416	1316
417	1317
418	1318
421	1321
422	1322
423	1323
501	1501
502	1502
503	1503

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Title 38 Former Sections	*Title 38 Renumbered Sections*
504	1504
505	1505
506	1506
507	1507
508	1508
510	Rep.
511	1511
512	1512
521	1521
522	1522
523	1523
524	1524
525	1525
531	Rep.
532	1532
533	1533
534	1534
535	1535
536	1536
537	1537
541	1541
542	1542
543	1543
544	Rep.
560	1560
561	1561
562	1562
601	1701
602	1702
603	1703
610	1710
611	1711
612	1712
612A	1712A
612B	1712B
613	1713
614	1714
615	1715
616	1716
617	1717
618	1718
619	1719
620	1720
620A	1720A
620B	1720B
620C	1720C
621	1721
622	1722
622A	1722A
623	1723
624	1724
625	Rep.
626	1726
627	1727
628	1728
629	1729
630	1730
631	1731
632	1732
633	1733
634	1734
635	1735
641	1741
642	1742
643	1743
644	Rep.
651	1751
652	1752
653	1753
654	1754
661	1761
662	1762
663	1763
664	1764
701	1901
702	1902
703	1903
704	1904
705	1905
706	1906
707	1907
708	1908
709	1909
710	1910
711	1911
712	1912
713	1913
714	1914
715	1915
716	1916
717	1917
718	1918
719	1919
720	1920
721	1921
722	1922
723	1923
724	1924
725	1925
726	1926

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Title 38 Former Sections	*Title 38 Renumbered Sections*
727	1927
728	1928
729	1929
740	1940
741	1941
742	1942
743	1943
744	1944
745	1945
746	1946
747	1947
748	1948
749	1949
750	1950
751	1951
752	1952
753	1953
754	1954
755	1955
756	1956
757	1957
758	1958
759	1959
760	1960
761	1961
762	1962
763	1963
765	1965
766	1966
767	1967
768	1968
769	1969
770	1970
771	1971
772	1972
773	1973
774	1974
775	1975
776	1976
777	1977
778	1978
779	1979
781	1981
782	1982
783	1983
784	1984
785	1985
786	1986
787	1987
788	1988
801	2101
802	2102
803	2103
804	2104
805	2105
806	2106
901	2301
902	2302
903	2303
904	2304
905	2305
906	2306
907	2307
908	2308
1000	2400
1001	2401
1002	2402
1003	2403
1004	2404
1005	2405
1006	2406
1007	2407
1008	2408
1009	2409
1010	2410
1401	3001
1402	3002
1411	3011
1412	3012
1413	3013
1414	3014
1415	3015
1416	3016
1417	3017
1418	3018
1418A	3018A
1419	3019
1421	3021
1422	3022
1423	3023
1431	3031
1432	3032
1433	3033
1434	3034
1435	3035
1436	3036
1500	3100
1501	3101
1502	3102
1503	3103

TABLE II—CONTINUED

Title 38 Former Sections	*Title 38 Renumbered Sections*
1504	3104
1505	3105
1506	3106
1507	3107
1508	3108
1509	3109
1510	3110
1511	3111
1512	3112
1513	3113
1514	3114
1515	3115
1516	3116
1517	3117
1518	3118
1519	3119
1520	3120
1521	3121
1601	3201
1602	3202
1621	3221
1622	3222
1623	3223
1624	3224
1625	3225
1631	3231
1632	3232
1633	3233
1634	3234
1641	3241
1642	Rep.
1643	3243
1651	3451
1652	3452
1661	3461
1662	3462
1663	Rep.
1670	3470
1671	3471
1672	Rep.
1673	3473
1674	3474
1675	Rep.
1676	3476
1677, 1678	Rep.
1681	3481
1682	3482
1682A	Rep.
1683	3483
1684	3484
1685	3485
1686, 1687	Rep.
1690	3490
1691	3491
1692	3492
1693	3493
1695–1698	Rep.
1700	3500
1701	3501
1710	3510
1711	3511
1712	3512
1713	3513
1714	3514
1720	3520
1721	3521
1722	Rep.
1723	3523
1724	3524
1725, 1726	Rep.
1731	3531
1732	3532
1733	3533
1734	3534
1735	3535
1736	3536
1737	3537
1738	Rep.
1740	3540
1741	3541
1742	3542
1743	3543
1761	3561
1762	3562
1763	3563
1764	Rep.
1765	3565
1766	3566
1770	3670
1771	3671
1772	3672
1773	3673
1774	3674
1774A	3674A
1775	3675
1776	3676
1777	3677
1778	3678
1779	3679
1780	3680

TABLE II—CONTINUED

Title 38 Former Sections	*Title 38 Renumbered Sections*
1781	3681
1782	3682
1783	3683
1784	3684
1784A	3684A
1785	3685
1786	3686
1787	3687
1788	3688
1789	3689
1790	3690
1791	3691
1792	3692
1793	3693
1794	3694
1795	3695
1796	3696
1797	3697
1797A	3697A
1798	3698
1799	3699
1801	3701
1802	3702
1803	3703
1804	3704
1805	3705
1806	3706
1807	Rep.
1810	3710
1811	3711
1812	3712
1813	3713
1814	3714
1815–1817A	Elim.
1818	Rep.
1819	Elim.
1820	3720
1821	3721
1822	Rep.
1823	3723
1824	3724
1825	3725
1826	3726
1827	3727
1828	3728
1829	3729
1830	3730
1831	3731
1832	3732
1833	3733
1834	3734
1835	3735
1841	3741
1842	3742
1843	3743
1844	3744
1845	3745
1846	3746
1847	3747
1848	3748
1849	3749
1850	3750
1851	3751
1901	3901
1902	3902
1903	3903
1904	3904
2000	4100
2001	4101
2002	4102
2002A	4102A
2003	4103
2003A	4103A
2004	4104
2004A	4104A
2005	4105
2006	4106
2007	4107
2008	4108
2009	4109
2010	4110
2010A	4110A
2011	4211
2012	4212
2013	4213
2014	4214
2021	4301
2022	4302
2023	4303
2024	4304
2025	4305
2026	4306
2027	4307
3001	5101
3002	5102
3003	5103
3004	5104
3005	5105
3006	5106
3007	5107

TABLE II—CONTINUED

Title 38 Former Sections	*Title 38 Renumbered Sections*
3008	5108
3009	5109
3010	5110
3011	5111
3012	5112
3013	5113
3020	5120
3021	5121
3022	5122
3023	5123
3101	5301
3102	5302
3103	5303
3103A	5303A
3104	5304
3105	5305
3106	5306
3107	5307
3108	5308
3109	5309
3110	5310
3111	5311
3112	5312
3113	5313
3114	5314
3115	5315
3116	5316
3117	5317
3118	5318
3201	5501
3202	5502
3203	5503
3204	5504
3205	5505
3301	5701
3302	5702
3303	5703
3304	5704
3305	5705
3311	5711
3312	5712
3313	5713
3401	5901
3402	5902
3403	5903
3404	5904
3405	5905
3501	6101
3502	6102
3503	6103
3504	6104
3505	6105
4001	7101
4002	7102
4003	7103
4004	7104
4005	7105
4005A	7105A
4006	7106
4007	7107
4008	7108
4009	7109
4010	7110
4051	7251
4052	7252
4053	7253
4054	7254
4055	7255
4056	7256
4061	7261
4062	7262
4063	7263
4064	7264
4065	7265
4066	7266
4067	7267
4068	7268
4069	7269
4081	7281
4082	7282
4083	7283
4084	7284
4085	7285
4091	7291
4092	7292
4096	7296
4097	7297
4098	7298
4101(a)	Rep. See 7301
4101(b)	Rep. See 7302
4101(c)(1), (2), (4)	Rep. See 7303
4101(c)(3)	Rep. See 7317
4101(e)	Rep. See 7425(a)
4101(f)(1), (3), (4)	Rep. See 7314
4101(f)(2)	Rep. See 7315
4102	Rep. See 7305
4103	Rep. See 7306
4104	Rep. See 7401
4105	Rep. See 7402(a)–(d)
4106	Rep. See 7403

TABLE II—CONTINUED

Title 38 Former Sections	*Title 38 Renumbered Sections*
4107(a)–(d)	Rep. See 7404
4107(e)	Rep. See 7453
4107(f)	Rep. See 7454
4107(g)	Rep. See 7455
4107(h)	Rep. See 7456
4107(i)	Rep. See 7426(c)
4107(j)	Rep. See 7457
4108(a) (partial)	Rep. See 7421
4108(a)	Rep. See 7423(a)–(c)
4108(b)	Rep. See 7402(e)
4108(c)	Rep. See 7423(d)
4108(d)	Rep. See 7424(b)
4109	Rep. See 7426(a)
4110	Rep. See 7464
4111	Rep. See 7408
4112(a)	Rep. See 7312
4112(b), (c)	Rep. See 7313
4113	Rep. See 7424(a)
4114(a)	Rep. See 7405
4114(b)	Rep. See 7406
4114(c)–(g)	Rep. See 7407
4115	Rep. See 7304
4116	Rep. See 7316
4117	Rep. See 7409
4118	Rep. See 7431–7440
4119	Rep. See 7425(b)
4120	Rep. See 7458
4121	Rep. See 7471
4122	Rep. See 7472
4123	Rep. See 7473
4124	Rep. See 7474
4131	7331
4132	7332
4133	7333
4134	7334
4141	7451
4142	7452
4143–4146	Rep.
4151	Rep. See 7311(a)–(e)
4152	Rep. See 7311(f), (g)
4161	7361
4162	7362
4163	7363
4164	7364
4165	7365
4166	7366
4167	7367
4168	7368
4201	7801
4202	7802
4203	7803
4204	7804
4205	7805
4206	7806
4207	7807
4208	7808
4209	7809
4210	7810
4301	7601
4302	7602
4303	7603
4304	7604
4311	7611
4312	7612
4313	7613
4314	7614
4315	7615
4316	7616
4317	7617
4318	7618
4321	7621
4322	7622
4323	7623
4324	7624
4325	7625
4331	7631
4332	7632
4333	7633
4334	7634
4335	7635
4336	7636
4351	7651
4352	7652
4353	7653
4354	7654
4355	7655
5001	8101
5002	8102
5003	8103
5004	8104
5005	8105
5006	8106
5007	8107
5008	8108
5009	8109
5010	8110
5011	8111
5011A	8111A
5012	8112
5013	8113

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Title 38 Former Sections	*Title 38 Renumbered Sections*
5014	8114
5015	8115
5016	8116
5021	8121
5022	8122
5023	8123
5024	8124
5025	8125
5031	8131
5032	8132
5033	8133
5034	8134
5035	8135
5036	8136
5037	8137
5051	8151
5052	8152
5053	8153
5054	8154
5055	8155
5056	8156
5057	Rep.
5070	8201
5071	8211
5072	8212
5073	8213
5074	8214
5081	8221
5082	8222
5083	8223
5091	8231
5092	8232
5093	8233
5096	8241
5101	8301
5102	8302
5103	8303
5104	8304
5105	8305
5201	8501
5202	8502
5203	8503
5204	8504
5205	8505
5206	8506
5207	8507
5208	8508
5209	8509
5210	8510
5220	8520
5221	8521
5222	8522
5223	8523
5224	8524
5225	8525
5226	8526
5227	8527
5228	8528

ENACTING CLAUSE

Pub. L. 85–857, §1, Sept. 2, 1958, 72 Stat. 1105, provided in part: ''That the laws relating to veterans' benefits are revised, codified, and enacted as title 38, United States Code, 'Veterans' Benefits' ''.

EFFECTIVE DATE

Pub. L. 85–857, §2, Sept. 2, 1958, 72 Stat. 1262, provided that: ''Except as otherwise provided in this Act, this Act shall take effect on January 1, 1959.''

OFFENSES COMMITTED UNDER REPEALED LAWS

Pub. L. 85–857, §3, Sept. 2, 1958, 72 Stat. 1262, provided that:

''(a) All offenses committed and all penalties and forfeitures incurred under any of the provisions of law amended or repealed by this Act or the Veterans' Benefits Act of 1957 may be prosecuted and punished in the same manner and with the same effect as if such Acts had not been enacted.

''(b) Forfeitures of benefits under laws administered by the Veterans' Administration occurring before January 1959 shall continue to be effective.''

CONTINUATION OF AUTHORITY UNDER ACT OF JULY 3, 1930

Pub. L. 85–857, §4, Sept. 2, 1958, 72 Stat. 1262, provided that: ''All functions, powers, and duties conferred upon and vested in the President and the Administrator by the Act of July 3, 1930 (46 Stat. 1016) and which were in effect on December 31, 1957, are continued in effect.''

CROSS REFERENCES

Pub. L. 85–857, §5, Sept. 2, 1958, 72 Stat. 1262, provided that:

''(a) References in other laws to any provision of law replaced by title 38, United States Code, shall, where applicable, be deemed to refer also to the corresponding provision of title 38, United States Code.

''(b) References in title 38, United States Code, to any provision of title 38, United States Code, shall, where applicable, be deemed to refer also to the prior corresponding provisions of law.

''(c) Amendments effective after August 18, 1958, made to any provision of law replaced by title 38, United States Code, shall, notwithstanding the repeal of such provision by section 14 of this Act, supersede the corresponding provisions of title 38, United States Code, to the extent that such amendments are inconsistent therewith.''

CONTINUING AVAILABILITY OF APPROPRIATIONS

Pub. L. 85–857, §6, Sept. 2, 1958, 72 Stat. 1263, provided that:

''(a) Amounts heretofore appropriated to carry out the purposes of any provision of law repealed by this Act, and available on December 31, 1958, shall be available to carry out the purposes of the corresponding provisions of title 38, United States Code.

''(b) The availability and use of appropriations made for the purposes of the Act of July 1, 1948 (62 Stat. 1210; 50 App. U.S.C. 1991–1996) shall not be affected by the repeal of such Act.''

OUTSTANDING RULES, REGULATIONS, AND ORDERS

Pub. L. 85–857, §7, Sept. 2, 1958, 72 Stat. 1263, provided that: ''All rules, regulations, orders, permits, and other privileges issued or granted by the Administrator of Veterans' Affairs before December 31, 1958, and in effect on such date (or scheduled to take effect after such date) shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator.''

PUBLICATION

Pub. L. 85–857, §8, Sept. 2, 1958, 72 Stat. 1263, provided that: ''This Act shall be printed in slip-law form with a table of contents and a comprehensive index and tables furnished by the Committee on Veterans' Affairs of the House of Representatives; however, such table of contents, comprehensive index and tables shall not be printed in the United States Statutes at Large.''

PENDING CLAIMS

Pub. L. 85–857, §9, Sept. 2, 1958, 72 Stat. 1263, provided that: ''A claim for benefits which is pending in the Veterans' Administration on January 1, 1959, or filed thereafter, shall be adjudicated under the laws in effect on December 31, 1958, with respect to the period before January 1, 1959, and, except as provided in section 10, under title 38, United States Code, thereafter.''

PERSONS RECEIVING BENEFITS ON DECEMBER 31, 1958

Pub. L. 85–857, §10, Sept. 2, 1958, 72 Stat. 1263, provided that: ''Any individual receiving benefits as a veteran, or as the widow, child, or parent of a veteran, under public laws administered by the Veterans' Administration on December 31, 1958, shall, as long as entitlement under such laws continues, receive benefits under the corresponding provisions of title 38, United States Code, thereafter, or benefits at the rate payable under such public laws, whichever will result in the greater benefit being paid to the individual. The provisions of this section shall apply to those claims within the purview of section 9 in which it is determined that benefits are payable for December 31, 1958.''

PERSONS ENTITLED TO EMERGENCY OFFICERS' RETIREMENT PAY ON DECEMBER 31, 1958, OR WHO FAILED TO SUBMIT APPLICATIONS PRIOR TO MAY 25, 1929

Pub. L. 85–857, §11, Sept. 2, 1958, 72 Stat. 1263, as amended by Pub. L. 87–875, Oct. 24, 1962, 76 Stat. 1198, provided that:

''(a) Any person who was receiving, or entitled to receive, emergency officers' retirement pay, or other privileges or benefits as a retired emergency officer of World War I, on December 31, 1958, under the laws in effect on that day, shall, except where there was fraud, clear and unmistakable error as to conclusion of fact or law, or misrepresentation of material facts, continue, to receive, or be entitle to receive, emergency officers' retirement pay at the rate otherwise payable on December 31, 1958, and such other privileges and benefits, so long as the conditions warranting such pay, privileges, and benefits under those laws continue.

''(b) Any individual who, upon application therefor before May 25, 1929, would have been granted emergency officer's retirement pay based upon 30 per centum or more disability under the Act of May 24, 1928 (45 Stat. 735), and who would have been entitled to continue to receive such pay under section 10 of Public Numbered 2, Seventy-third Congress, or under section 1 of Public Numbered 743, Seventy-sixth Congress, and who upon being placed on the emergency officers' retired list would have been paid retired pay at a monthly rate lower than the monthly rate of disability compensation then payable, shall, upon application made therefor after the date of enactment of this subparagraph [Oct. 24, 1962] to the Administrator of Veterans' Affairs, be placed upon the appropriate emergency officers' retired list, and thereafter shall be entitled to all rights, privileges, and benefits of retired emergency officers of World War I.''

CONTINUATION OF CERTAIN RIGHTS AND BENEFITS

Pub. L. 85–857, §12, Sept. 2, 1958, 72 Stat. 1264, as amended by Pub. L. 89–50, §1(c), June 24, 1965, 79 Stat. 173; Pub. L. 91–24, §14(a), June 11, 1969, 83 Stat. 35, provided that:

''(a) [Repealed by Pub. L. 91–24, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder. Prior to such repeal, subsec. (a) read as follows: ''The repeal of part VIII, and paragraphs 10 and 11 of part VII, of Veterans Regulation Numbered 1(a), sections 3 and 4 of Public Law 16, Seventy-eighth Congress, and section 1507 of the Servicemen's Readjustment Act of 1944, shall not apply in the case of any veteran (1) who enlisted or reenlisted in a regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, or (2) whose discharge or dismissal is changed, corrected, or modified before February 1, 1965, pursuant to section 1552 or 1553 of title 10, United States Code, or by other corrective action by competent authority.'']

''(b) Nothing in this Act or any amendment or repeal made by it, shall affect any right, liability, penalty, authorization or requirement pertaining to World War adjusted compensation authorized or prescribed under the provisions of the World War Adjusted Compensation Act, or the Adjusted Compensation Payment Act, 1936, or any related Act, which was in effect on December 31, 1958.

''(c) [Repealed by Pub. 89–50, effective July 1, 1966. Prior to such repeal, subsec. (c) read as follows: ''Nothing in this Act, or any amendment or repeal made by it, shall deprive any person of benefits under the Mustering-Out Payment Act of 1944 to which he would have been entitled if this Act had not been enacted.'']

''(d) Nothing in this Act, or any amendment or repeal made by it, shall affect any right of any person based on a contract entered into before the effective date of this Act, or affect the manner in which such right could have been enforced or obtained but for this Act, or such amendment or repeal.

''(e) Chapter 37 of title 38, United States Code, is a continuation and restatement of the provisions of title III of the Servicemen's Readjustment Act of 1944, and may be considered to be an amendment to such title III.''

IMPROVEMENT OF UNITED STATES CODE BY PUB. L. 102–83; CORRESPONDING PROVISIONS; SAVINGS PROVISION

Pub. L. 102–83, §7, Aug. 6, 1991, 105 Stat. 410, provided that:

''(a) REFERENCES TO REPLACED LAWS.—A reference to a provision of title 38, United States Code, replaced by a provision of that title enacted by section 2 [enacting chapters 3, 5, 7, 9, and 77 of this title, amending sections 618, 621, 654, 1521, 1685, 1833, 2003A, 2014, 5701, 7101, and 7455 of this title, and repealing former chapter 3 of this title] (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this Act.

''(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a provision of title 38, United States Code, replaced by a provision of that title enacted by section 2 shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

''(c) GENERAL SAVINGS PROVISION.—An action taken or an offense committed under a provision of title 38, United States Code, replaced by a provision of that title enacted by section 2 shall be treated as having been taken or committed under the corresponding provision enacted by this Act.''

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AMENDMENTS

2003—Pub. L. 108–183, title I, §102(e)(2), Dec. 16, 2003, 117 Stat. 2655, substituted ''Benefits for Children of Vietnam Veterans and Certain Other Veterans'' for ''Benefits for Children of Vietnam Veterans'' in item for chapter 18.

2002—Pub. L. 107–330, title III, §308(g)(1)(A), Dec. 6, 2002, 116 Stat. 2828, substituted ''5100'' for ''5101'' in item for chapter 51.

2001—Pub. L. 107–95, §5(a)(2), Dec. 21, 2001, 115 Stat. 918, added item for chapter 20.

2000—Pub. L. 106–419, title IV, §401(f)(2), Nov. 1, 2000, 114 Stat. 1861, substituted ''Benefits for Children of Vietnam Veterans'' and ''1802'' for ''Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida'' and ''1801'', respectively, in item for chapter 18.

1998—Pub. L. 105–368, title V, §512(a)(4)(B), Nov. 11, 1998, 112 Stat. 3341, substituted ''Appeals for Veterans Claims'' for ''Veterans Appeals'' in item for chapter 72.

1996—Pub. L. 104–204, title IV, §421(b)(2), Sept. 26, 1996, 110 Stat. 2926, added item for chapter 18.

1994—Pub. L. 103–446, title XII, §1201(h)(1), Nov. 2, 1994, 108 Stat. 4688, struck out item for chapter 42 and added identical new item for chapter 42.

Pub. L. 103–353, §2(b)(1), Oct. 13, 1994, 108 Stat. 3169, substituted ''Employment and Reemployment Rights of Members of the Uniformed Services'' and ''4301'' for ''Veterans' Reemployment Rights'' and ''2021'', respectively, in item for chapter 43.

1991—Pub. L. 102–86, title IV, §401(b)(2), Aug. 14, 1991, 105 Stat. 422, inserted ''; Enhanced-Use Leases of Real Property'' in item for chapter 81.

Pub. L. 102–83, §§2(d)(1), 5(b)(2), Aug. 6, 1991, 105 Stat. 402, 406, substituted ''Department of Veterans Affairs . . . 301'' for ''Veterans' Administration; Officers and Employees . . . 201'' in item for chapter 3, added items for chapters 5, 7, 9, and 77, substituted ''1101'' for ''301'' in item for chapter 11, ''1301'' for ''401'' in item for chapter 13, ''1501'' for ''501'' in item for chapter 15, ''1701'' for ''601'' in item for chapter 17, ''1901'' for ''701'' in item for chapter 19, ''2101'' for ''801'' in item for chapter 21, ''2301'' for ''901'' in item for chapter 23, ''2400'' for ''1000'' in item for chapter 24, ''3001'' for ''1401'' in item for chapter 30, ''3100'' for ''1500'' in item for chapter 31, ''3201'' for ''1601'' in item for chapter 32, ''3451'' for ''1651'' in item for chapter 34, ''3500'' for ''1700'' in item for chapter 35, ''3670'' for ''1770'' in item for chapter 36, ''3701'' for ''1801'' in item for chapter 37, ''3901'' for ''1901'' in item for chapter 39, ''4100'' for ''2000'' in item for chapter 41, and ''4211'' for ''2011'' in item for chapter 42.

Pub. L. 102–54, §14(e)(1), June 13, 1991, 105 Stat. 287, inserted ''United States'' in item for chapter 72.

Pub. L. 102–40, title IV, §§402(c)(2), 403(f)(1), May 7, 1991, 105 Stat. 239, 240, substituted ''5101'' for ''3001'' in item for chapter 51, ''5301'' for ''3101'' in item for chapter 53, ''5501'' for ''3201'' in item for chapter 55, ''5701'' for ''3301'' in item for chapter 57, ''5901'' for ''3401'' in item for chapter 59, ''6101'' for ''3501'' in item for chapter 61, ''Boards, Administrations, and Services'' for ''Boards and Departments'' in item for part V, ''7101'' for ''4001'' in item chapter 71, ''7251'' for ''4051'' in item for chapter 72, ''Veterans Health Administration—Organization and Functions . . . 7301'' for ''Department of Medicine and Surgery . . . 4101'', added item for chapter 74, struck out item for chapter 75 ''Veterans' Canteen Services . . . 4201'', substituted ''7601'' for ''4301'' in item for chapter 76, added item for chapter 78, substituted ''8101'' for ''5001'' in item for chapter 81, ''8201'' for ''5070'' in item for chapter 82, ''8301'' for ''5101'' in item for chapter 83, and ''8501'' for ''5201'' in item for chapter 85.

Pub. L. 102–16, §9(c)(2), Mar. 22, 1991, 105 Stat. 55, struck out ''Disabled and Vietnam Era'' after ''Employment and Training of'' in item for chapter 42.

1988—Pub. L. 100–687, div. A, title I, §103(c)(1), title III, §301(b), Nov. 18, 1988, 102 Stat. 4107, 4121, substituted ''Claims'' for ''Applications'' in item for chapter 51 and added item for chapter 72.

Pub. L. 100–322, title II, §216(e)(2), May 20, 1988, 102 Stat. 530, added item for chapter 76.

1984—Pub. L. 98–525, title VII, §702(a)(2), Oct. 19, 1984, 98 Stat. 2563, added item for chapter 30.

1982—Pub. L. 97–306, title III, §301(b)(2), Oct. 14, 1982, 96 Stat. 1437, substituted ''2000'' for ''2001'' in item for chapter 41.

Pub. L. 97–295, §4(1)(A), Oct. 12, 1982, 96 Stat. 1304, substituted ''1500'' for ''1,500'' in item for chapter 31.

Pub. L. 97–295, §4(1)(B), Oct. 12, 1982, 96 Stat. 1304, substituted ''1651'' for ''1650'' in item for chapter 34.

Pub. L. 97–295, §4(1)(C), Oct. 12, 1982, 96 Stat. 1304, added item for chapter 82.

1981—Pub. L. 97–72, title III, §302(b)(2), Nov. 3, 1981, 95 Stat. 1059, substituted ''Housing and Small Business

[1] So in original. Does not conform to chapter heading.

Loans'' for ''Home, Condominium, and Mobile Home Loans'' in item for chapter 37.

1980—Pub. L. 96–466, title I, §101(b), Oct. 17, 1980, 94 Stat. 2186, substituted ''Training and Rehabilitation for Veterans with Service-Connected Disabilities . . . 1,500'' for ''Vocational Rehabilitation . . . 1501'' in item for chapter 31.

1976—Pub. L. 94–581, title II, §203(a), Oct. 21, 1976, 90 Stat. 2856, inserted ''Nursing Home,'' in item for chapter 17.

Pub. L. 94–502, title III, §309(b), Oct. 15, 1976, 90 Stat. 2391, substituted ''Survivors' and Dependents' Educational Assistance'' for ''War Orphans' and Widows' Education Assistance'' in item for chapter 35.

Pub. L. 94–502, title IV, §405, Oct. 15, 1976, 90 Stat. 2397, added item for chapter 32.

1974—Pub. L. 93–569, §7(d), Dec. 31, 1974, 88 Stat. 1866, substituted ''Home, Condominium, and Mobile Home Loans'' for ''Home, Farm, and Business Loans'' in item for chapter 37.

Pub. L. 93–508, title IV, §404(b), Dec. 3, 1974, 88 Stat. 1600, added item for chapter 43.

1973—Pub. L. 93–43, §2(b), June 18, 1973, 87 Stat. 78, added item for chapter 24.

1972—Pub. L. 92–540, title V, §§502(b), 503(b), Oct. 24, 1972, 86 Stat. 1097, 1098, substituted '', Training and'' for ''and Employment'' in item for chapter 41, and added item for chapter 42.

1971—Pub. L. 91–666, §2(b), Jan. 11, 1971, 84 Stat. 2000, substituted ''Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces'' for ''Automobiles for Disabled Veterans'' in item for chapter 39.

1968—Pub. L. 90–631, §2(h)(2), Oct. 23, 1968, 82 Stat. 1333, substituted ''War Orphans' and Widows' Educational Assistance . . . 1700'' for ''War Orphans' Educational Assistance . . . 1701'' in item for chapter 35.

1966—Pub. L. 89–358, §§4(c), 6(b), Mar. 3, 1966, 80 Stat. 23, 27, substituted chapter ''34. Veterans' Educational Assistance . . . 1650'' for chapter ''33. Education of Korean Conflict Veterans . . . 1601'' and added chapter 36; and substituted ''Job Counseling and Employment Placement Service for Veterans'' for ''Unemployment Benefits for Veterans'' in item for chapter 41, respectively.

1965—Pub. L. 89–50, §1(b), June 24, 1965, 79 Stat. 173, struck out item for chapter 43 which related to mustering out payments.

PART I—GENERAL PROVISIONS

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AMENDMENTS

1991—Pub. L. 102–83, §2(d)(2), Aug. 6, 1991, 105 Stat. 402, substituted ''Department of Veterans Affairs . . . 301'' for ''Veterans' Administration; Officers and Employees . . . 201'' in item for chapter 3 and added items for chapters 5, 7, and 9.

CHAPTER 1—GENERAL

Sec.
101. Definitions.
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106. Certain service deemed to be active service.
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108. Seven-year absence presumption of death.
109. Benefits for discharged members of allied forces.
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112. Presidential memorial certificate program.
113. Treatment of certain programs under sequestration procedures.
114. Multiyear procurement.
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116. Reports to Congress: cost information.

AMENDMENTS

2000—Pub. L. 106–419, title IV, §403(d)(1)(B), Nov. 1, 2000, 114 Stat. 1864, added item 116.

1991—Pub. L. 102–86, title IV, §402(b), Aug. 14, 1991, 105 Stat. 422, added item 115.

1989—Pub. L. 101–237, title VI, §601(b)(2), Dec. 18, 1989, 103 Stat. 2094, struck out ''for certain medical items'' after ''Multiyear procurement'' in item 114.

1988—Pub. L. 100–322, title I, §108(e)(2), title IV, §404(b), May 20, 1988, 102 Stat. 498, 547, substituted ''Payments or allowances for beneficiary travel'' for ''Travel expenses'' in item 111 and added item 114.

1986—Pub. L. 99–576, title VI, §601(a)(2), title VII, §701(1)(B), Oct. 28, 1986, 100 Stat. 3289, 3290, struck out ''; husbands'' after ''parents'' in item 102 and added item 113.

1972—Pub. L. 92–540, title IV, §409, Oct. 24, 1972, 86 Stat. 1092, substituted ''Dependent parents; husbands'' for ''Dependent parents and dependent husbands'' in item 102.

1965—Pub. L. 89–88, §1(b), July 24, 1965, 79 Stat. 264, added item 112.

1964—Pub. L. 88–445, §1(c), Aug. 19, 1964, 78 Stat. 464, substituted ''Preservation of disability ratings'' for ''Preservation of total disability ratings'' in item 110.

§101. Definitions

For the purposes of this title—

(1) The terms ''Secretary'' and ''Department'' mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.

(2) The term ''veteran'' means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

(3) The term ''surviving spouse'' means (except for purposes of chapter 19 of this title) a person of the opposite sex who was the spouse of a veteran at the time of the veteran's death, and who lived with the veteran continuously from the date of marriage to the date of the veteran's death (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse) and who has not remarried or (in cases not involving remarriage) has not since the death of the veteran, and after September 19, 1962, lived with another person and held himself or herself out openly to the public to be the spouse of such other person.

(4)(A) The term ''child'' means (except for purposes of chapter 19 of this title (other than with respect to a child who is an insurable dependent under section 1965(10)(B) of such chapter) and section 8502(b) of this title) a person who is unmarried and—

(i) who is under the age of eighteen years;

(ii) who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(iii) who, after attaining the age of eighteen years and until completion of education or

training (but not after attaining the age of twenty-three years), is pursuing a course of instruction at an approved educational institution;

and who is a legitimate child, a legally adopted child, a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death, or an illegitimate child but, as to the alleged father, only if acknowledged in writing signed by him, or if he has been judicially ordered to contribute to the child's support or has been, before his death, judicially decreed to be the father of such child, or if he is otherwise shown by evidence satisfactory to the Secretary to be the father of such child. A person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of such veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the veteran's surviving spouse before August 26, 1961, or within two years after the veteran's death; however, this sentence shall not apply if at the time of the veteran's death, such person was receiving regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse, or from any public or private welfare organization which furnishes services or assistance for children. A person with respect to whom an interlocutory decree of adoption has been issued by an appropriate adoption authority shall be recognized thereafter as a legally adopted child, unless and until that decree is rescinded, if the child remains in the custody of the adopting parent or parents during the interlocutory period. A person who has been placed for adoption under an agreement entered into by the adopting parent or parents with any agency authorized under law to so act shall be recognized thereafter as a legally adopted child, unless and until such agreement is terminated, if the child remains in the custody of the adopting parent or parents during the period of placement for adoption under such agreement. A person described in clause (ii) of the first sentence of this subparagraph who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran shall be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of adoption.

(B) For the purposes of subparagraph (A) of this paragraph, in the case of an adoption under the laws of any jurisdiction other than a State (as defined in section 101(20) of this title and including the Commonwealth of the Northern Mariana Islands)—

(i) a person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of such veteran (including for purposes of this subparagraph a Commonwealth Army veteran or new Philippine Scout, as defined in section 3566 of this title) unless such person—

(I) was less than eighteen years of age at the time of adoption;

(II) is receiving one-half or more of such person's annual support from such veteran;

(III) is not in the custody of such person's natural parent, unless such natural parent is such veteran's spouse; and

(IV) is residing with such veteran (or in the case of divorce following adoption, with the divorced spouse who is also an adoptive or natural parent) except for periods during which such person is residing apart from such veteran (or such divorced spouse) for purposes of full-time attendance at an educational institution or during which such person or such veteran (or such divorced spouse) is confined in a hospital, nursing home, other health-care facility, or other institution; and

(ii) a person shall not be considered to have been a legally adopted child of a veteran as of the date of such veteran's death and thereafter unless—

(I) at any time within the one-year period immediately preceding such veteran's death, such veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit under this title for such person; or

(II) for a period of at least one year prior to such veteran's death, such person met the requirements of clause (i) of this subparagraph.

(5) The term ''parent'' means (except for purposes of chapter 19 of this title) a father, a mother, a father through adoption, a mother through adoption, or an individual who for a period of not less than one year stood in the relationship of a parent to a veteran at any time before the veteran's entry into active military, naval, or air service or if two persons stood in the relationship of a father or a mother for one year or more, the person who last stood in the relationship of father or mother before the veteran's last entry into active military, naval, or air service.

(6) The term ''Spanish-American War'' (A) means the period beginning on April 21, 1898, and ending on July 4, 1902, (B) includes the Philippine Insurrection and the Boxer Rebellion, and (C) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903.

(7) The term ''World War I'' (A) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (B) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

(8) The term ''World War II'' means (except for purposes of chapters 31 and 37 of this title) the period beginning on December 7, 1941, and ending on December 31, 1946.

(9) The term ''Korean conflict'' means the period beginning on June 27, 1950, and ending on January 31, 1955.

(10) The term ''Armed Forces'' means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof.

(11) The term ''period of war'' means the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and the period beginning on the date of any future dec-

laration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(12) The term ''veteran of any war'' means any veteran who served in the active military, naval, or air service during a period of war.

(13) The term ''compensation'' means a monthly payment made by the Secretary to a veteran because of service-connected disability, or to a surviving spouse, child, or parent of a veteran because of the service-connected death of the veteran occurring before January 1, 1957.

(14) The term ''dependency and indemnity compensation'' means a monthly payment made by the Secretary to a surviving spouse, child, or parent (A) because of a service-connected death occurring after December 31, 1956, or (B) pursuant to the election of a surviving spouse, child, or parent, in the case of such a death occurring before January 1, 1957.

(15) The term ''pension'' means a monthly or other periodic payment made by the Secretary to a veteran because of service, age, or non-service-connected disability, or to a surviving spouse or child of a veteran because of the non-service-connected death of the veteran.

(16) The term ''service-connected'' means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(17) The term ''non-service-connected'' means, with respect to disability or death, that such disability was not incurred or aggravated, or that the death did not result from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.

(18) The term ''discharge or release'' includes (A) retirement from the active military, naval, or air service, and (B) the satisfactory completion of the period of active military, naval, or air service for which a person was obligated at the time of entry into such service in the case of a person who, due to enlistment or reenlistment, was not awarded a discharge or release from such period of service at the time of such completion thereof and who, at such time, would otherwise have been eligible for the award of a discharge or release under conditions other than dishonorable.

(19) The term ''State home'' means a home established by a State (other than a possession) for veterans disabled by age, disease, or otherwise who by reason of such disability are incapable of earning a living. Such term also includes such a home which furnishes nursing home care for veterans.

(20) The term ''State'' means each of the several States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. For the purpose of section 2303 and chapters 34 and 35 of this title, such term also includes the Canal Zone.

(21) The term ''active duty'' means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to ''full military benefits'' or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

(22) The term ''active duty for training'' means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to ''full military benefits'', or (iii) at any time, for the purposes of chapter 13 of this title;

(C) in the case of members of the Army National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law;

(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10 for a period of not less than four weeks and which must be completed by the member before the member is commissioned; and

(E) authorized travel to or from such duty.

The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(23) The term ''inactive duty training'' means—

(A) duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206 of title 37 or any other provision of law;

(B) special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned; and

(C) training (other than active duty for training) by a member of, or applicant for

membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.

In the case of a member of the Army National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504, or 505 of title 32, or the prior corresponding provisions of law. Such term does not include (i) work or study performed in connection with correspondence courses, (ii) attendance at an educational institution in an inactive status, or (iii) duty performed as a temporary member of the Coast Guard Reserve.

(24) The term ''active military, naval, or air service'' includes—

(A) active duty;

(B) any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty; and

(C) any period of inactive duty training during which the individual concerned was disabled or died—

(i) from an injury incurred or aggravated in line of duty; or

(ii) from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident occurring during such training.

(25) The term ''Secretary concerned'' means—

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

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

(C) the Secretary of the Air Force, with respect to matters concerning the Air Force;

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard;

(E) the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service; and

(F) the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey.

(26) The term ''Reserve'' means a member of a reserve component of one of the Armed Forces.

(27) The term ''reserve component'' means, with respect to the Armed Forces—

(A) the Army Reserve;

(B) the Naval Reserve;

(C) the Marine Corps Reserve;

(D) the Air Force Reserve;

(E) the Coast Guard Reserve;

(F) the Army National Guard of the United States; and

(G) the Air National Guard of the United States.

(28) The term ''nursing home care'' means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.

(29) The term ''Vietnam era'' means the following:

(A) The period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period.

(B) The period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.

(30) The term ''Mexican border period'' means the period beginning on May 9, 1916, and ending on April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

(31) The term ''spouse'' means a person of the opposite sex who is a wife or husband.

(32) The term ''former prisoner of war'' means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, under circumstances which the Secretary finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

(33) The term ''Persian Gulf War'' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1106; Pub. L. 86–195, Aug. 25, 1959, 73 Stat. 424; Pub. L. 87–674, § 1, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87–815, § 3, Oct. 15, 1962, 76 Stat. 927; Pub. L. 88–450, § 4(c), (d), Aug. 19, 1964, 78 Stat. 504; Pub. L. 89–311, § 2(c)(1), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 89–358, § 4(d), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90–77, title II, § 201, Aug. 31, 1967, 81 Stat. 181; Pub. L. 91–24, §§ 1(a), (b), 16, June 11, 1969, 83 Stat. 33, 35; Pub. L. 91–262, § 1, May 21, 1970, 84 Stat. 256; Pub. L. 91–588, § 9(a), (b), Dec. 24, 1970, 84 Stat. 1584; Pub. L. 91–621, § 6(a)(1), (2), Dec. 31, 1970, 84 Stat. 1864; Pub. L. 92–198, § 5(a), Dec. 15, 1971, 85 Stat. 664; Pub. L. 92–540, title IV, § 407, Oct. 24, 1972, 86 Stat. 1092; Pub. L. 94–169, title I, § 101(1), Dec. 23, 1975, 89 Stat. 1013; Pub. L. 94–417, § 1(b), Sept. 21, 1976, 90 Stat. 1277; Pub. L. 95–126, § 3, Oct. 8, 1977, 91 Stat. 1108; Pub. L. 95–202, title III, § 309(a), Nov. 23, 1977, 91 Stat. 1446; Pub. L. 95–588, title III, § 301, Nov. 4, 1978, 92 Stat. 2506; Pub. L. 96–22, title IV, § 401, June 13, 1979, 93 Stat. 62; Pub. L. 97–37, § 3(a), Aug. 14, 1981, 95 Stat. 936; Pub. L. 97–295, § 4(2), (95)(A), Oct. 12, 1982, 96 Stat. 1304, 1313; Pub. L. 97–306, title I, § 113(a), Oct. 14, 1982, 96 Stat. 1432; Pub. L. 98–223, title II, § 201, Mar. 2, 1984, 98 Stat. 41; Pub. L. 99–576, title VII, § 702(1), Oct. 28, 1986, 100 Stat. 3301; Pub. L. 100–322, title I, § 103(a), title III, § 311, May 20, 1988, 102 Stat. 493, 534; Pub. L. 100–456, div. A, title VI, § 633(c), Sept. 29, 1988, 102 Stat. 1987; Pub. L. 101–237, § 2(a), Dec. 18, 1989, 103 Stat. 2062; Pub. L. 102–25, title III, § 332, Apr. 6, 1991, 105 Stat. 88; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; Pub. L.

102–54, §14(a)(1), June 13, 1991, 105 Stat. 282; Pub. L. 102–83, §§4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–446, title XII, §1201(a)(1), Nov. 2, 1994, 108 Stat. 4682; Pub. L. 104–275, title V, §505(a), Oct. 9, 1996, 110 Stat. 3342; Pub. L. 106–419, title III, §301(a), Nov. 1, 2000, 114 Stat. 1852; Pub. L. 107–14, §4(a)(2), June 5, 2001, 115 Stat. 26; Pub. L. 107–296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (20), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2002—Par. (25)(D). Pub. L. 107–296, §1704(d), which directed that section ''101(25)(d)'' be amended by substituting ''of Homeland Security'' for ''of Transportation'', was executed to subpar. (D) to reflect the probable intent of Congress.

2001—Par. (4)(A). Pub. L. 107–14 inserted ''(other than with respect to a child who is an insurable dependent under section 1965(10)(B) of such chapter)'' after ''except for purposes of chapter 19 of this title'' in introductory provisions.

2000—Par. (24). Pub. L. 106–419 amended par. (24) generally. Prior to amendment, par. (24) read as follows: ''The term 'active military, naval, or air service' includes active duty, any period of active duty for training during which the individual concerned was disabled or died from a disease or injury incurred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled or died from an injury incurred or aggravated in line of duty.''

1996—Par. (29). Pub. L. 104–275 amended par. (29) generally. Prior to amendment, par. (29) read as follows: ''The term 'Vietnam era' means the period beginning August 5, 1964, and ending on May 7, 1975.''

1994—Par. (1). Pub. L. 103–446 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The terms 'Secretary' and 'Administrator' mean the Secretary of Veterans Affairs, and the terms 'Department' and 'Department' mean the Department of Veterans Affairs.''

1991—Par. (1). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Par. (4)(A). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in concluding provisions.

Pub. L. 102–40 substituted ''8502(b)'' for ''5202(b)'' in introductory provisions.

Par. (4)(B)(i). Pub. L. 102–83, §5(c)(1), substituted ''3566'' for ''1766'' in introductory provisions.

Par. (11). Pub. L. 102–25, §332(1), inserted ''the Persian Gulf War,'' after ''the Vietnam era,''.

Pars. (13) to (15). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Par. (20). Pub. L. 102–83, §5(c)(1), substituted ''2303'' for ''903''.

Par. (21)(C)(ii). Pub. L. 102–54 redesignated subcls. (a), (b), and (c) as (I), (II), and (III), respectively.

Par. (32)(B). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Par. (33). Pub. L. 102–25, §332(2), added par. (33).

1989—Par. (1). Pub. L. 101–237 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The term 'Administrator' means the Administrator of Veterans' Affairs.''

1988—Par. (22)(D). Pub. L. 100–456, §633(c)(1), substituted ''training or a practice cruise under chapter 103 of title 10 for a period of not less than four weeks and which must be completed by the member before the member is commissioned'' for ''field training or a practice cruise under chapter 103 of title 10''.

Par. (23)(C). Pub. L. 100–456, §633(c)(2), added subpar. (C).

Par. (28). Pub. L. 100–322, §103(a), substituted ''who require nursing care'' for ''who require skilled nursing care'' and ''Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.'' for ''The term includes intensive care where the nursing service is under the supervision of a registered professional nurse.''

Par. (32)(B). Pub. L. 100–322, §311, struck out ''during a period other than a period of war in which such person was held'' before ''under circumstances which''.

1986—Pars. (22)(C), (23), (27)(F). Pub. L. 99–576, §702(1)(A), inserted ''Army'' before ''National Guard''.

Par. (31). Pub. L. 99–576, §702(1)(B), struck out ''and the term 'surviving spouse' means a person of the opposite sex who is a widow or widower'' after ''husband''.

1984—Par. (4)(A). Pub. L. 98–223 inserted provision that a person described in cl. (ii) of first sentence of subpar. (A) who was a member of a veteran's household at the time the person became 18 years of age and who is adopted by the veteran be recognized as a legally adopted child of the veteran regardless of the age of such person at the time of the adoption.

1982—Par. (4)(A). Pub. L. 97–295, §4(2), substituted ''before August 26, 1961, or within two years after the veteran's death'' for ''within two years after the veteran's death or the date of enactment of this sentence''.

Par. (22)(C). Pub. L. 97–306, §113(a)(1), struck out ''and'' after ''of law;''.

Par. (22)(D), (E). Pub. L. 97–306, §113(a)(2), (3), added subpar. (D) and redesignated former subpar. (D) as (E).

Par. (25)(E). Pub. L. 97–295, §4(95)(A), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1981—Par. (32). Pub. L. 97–37 added par. (32).

1979—Par. (4). Pub. L. 96–22 designated existing provisions as subpar. (A) and existing subpars. (A), (B), and (C) thereof as cls. (i), (ii), and (iii), respectively, and added subpar. (B).

1978—Par. (15). Pub. L. 95–588 inserted ''or other periodic'' after ''monthly''.

1977—Par. (18). Pub. L. 95–126 designated existing provisions as cl. (A) and added cl. (B).

Par. (29). Pub. L. 95–202 substituted ''May 7, 1975'' for ''such date as shall thereafter be determined by Presidential proclamation or concurrent resolution of the Congress.''

1976—Par. (19). Pub. L. 94–417 struck out ''of any war (including the Indian Wars)'' before ''disabled'' and ''of any war'' after ''care for veterans''.

1975—Par. (3). Pub. L. 94–169, §101(1)(A), substituted ''surviving spouse'' for ''widow'', ''person of the opposite sex'' for ''woman'', ''spouse'' for ''wife'' wherever appearing, ''the veteran's'' for ''his'' wherever appearing, ''with the veteran'' for ''with him'', ''person'' for ''man'' wherever appearing and ''himself or herself'' for ''herself''.

Par. (4). Pub. L. 94–169, §101(1)(B), substituted ''regular contributions toward the person's support from some individual other than the veteran or the veteran's spouse'' for ''regular contribution toward his support from some individual other than the veteran or his spouse''.

Par. (5). Pub. L. 94–169, §101(1)(C), substituted ''before the veteran's entry'' for ''before his entry''.

Pars. (13) to (15). Pub. L. 94–169, §101(1)(D)–(F), substituted ''surviving spouse'' for ''widow'' wherever appearing.

Par. (31). Pub. L. 94–169, §101(1)(G), added par. (31).

1972—Par. (4). Pub. L. 92–540 inserted provision recognizing as a legally adopted child a person who has been placed for adoption under an agreement entered into by the adopting parent or parents with an agency authorized by law to so act.

1971—Par. (30). Pub. L. 92–198 struck out service requirement of 90 days or more.

1970—Par. (4). Pub. L. 91–262 inserted provision recognizing an adopted child of a veteran as a dependent from the date of issuance of an interlocutory decree.

Par. (11). Pub. L. 91–588, §9(a), inserted reference to the Mexican border period.

Par. (21)(C). Pub. L. 91–621, § 6(a)(1), included within ''active duty'' duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization.

Par. (25)(F). Pub. L. 91–621, § 6(a)(2), inserted ''the National Oceanic and Atmospheric Administration or its predecessor organization'' before ''the Coast and Geodetic Survey''.

Par. (30). Pub. L. 91–588, § 9(b), added par. (30).

1969—Par. (3). Pub. L. 91–24, § 16, substituted ''September 16, 1962'' for ''enactment of the 1962 amendment to this paragraph''.

Par. (23)(A). Pub. L. 91–24, § 1(a), substituted ''section 206 of title 37'' for ''section 301 of title 37''.

Par. (25)(D). Pub. L. 91–24, § 1(b), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury''.

1967—Par. (11). Pub. L. 90–77, § 201(a), included Vietnam era within definition of ''period of war'' and substituted ''the date'' for ''a date''.

Par. (29). Pub. L. 90–77, § 201(b), added par. (29).

1966—Par. (20). Pub. L. 89–358 defined ''State'' to include the Canal Zone for the purpose of section 903 and chapters 34 and 35 of this title.

1965—Par. (4)(C). Pub. L. 89–311 substituted ''twenty-three years'' for ''twenty-one years''.

1964—Par. (19). Pub. L. 88–450, § 4(c), included within ''State home'' a home which furnishes nursing home care for veterans of any war.

Par. (28). Pub. L. 88–450, § 4(d), added par. (28).

1962—Par. (3). Pub. L. 87–674 inserted requirement that a widow, in cases not involving remarriage, must not, since the death of the veteran and after the enactment of this amendment, have lived with another man and held herself out openly to the public to be the wife of such other man, and struck out ''(unless the purported remarriage is void)'' after ''who has not remarried''.

Par. (26). Pub. L. 87–815 substituted '' 'Reserve' means a member'' for '' 'Reserves' means members''.

1959—Par. (4). Pub. L. 86–195 provided that a person shall be deemed, as of the date of death of a veteran, to be the legally adopted child of the veteran if such person was at the time of the veteran's death living in the veteran's household and was legally adopted by the surviving spouse of the veteran within two years after the veteran's death or Aug. 25, 1959, the date of enactment of Pub. L. 86–195, provided that such person was not receiving regular contributions toward his support from some individual other than the veteran or his spouse, or from any public or private welfare organization.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–14, § 4(g), June 5, 2001, 115 Stat. 30, provided that:

''(1) The amendments made by this section [amending this section and sections 1965 and 1967 to 1970 of this title] shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act [June 5, 2001].

''(2) Each Secretary concerned, acting in consultation with the Secretary of Veterans Affairs, shall take such action as is necessary to ensure that during the period between the date of the enactment of this Act and the effective date determined under paragraph (1) each eligible member—

''(A) is furnished an explanation of the insurance benefits available for dependents under the amendments made by this section; and

''(B) is afforded an opportunity before such effective date to make elections that are authorized under those amendments to be made with respect to dependents.

''(3) For purposes of paragraph (2):

''(A) The term 'Secretary concerned' has the meaning given that term in section 101 of title 38, United States Code.

''(B) The term 'eligible member' means a member of the uniformed services described in subparagraph (A) or (C) of section 1967(a)(1) of title 38, United States Code, as amended by subsection (b)(1).''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 505(d) of Pub. L. 104–275 provided that: ''The amendments made by this section [amending this section and sections 1116 and 1710 of this title] shall take effect on January 1, 1997. No benefit may be paid or provided by reason of such amendments for any period before such date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–456 applicable only with respect to training performed after Sept. 30, 1988, see section 633(e) of Pub. L. 100–456, set out as a note under section 2109 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 113(d) of Pub. L. 97–306, as amended by Pub. L. 98–223, title II, § 210, Mar. 2, 1984, 98 Stat. 45, provided that: ''The amendments made by subsections (a) [amending this section] and (b) [repealing former section 403 of this title] and the provisions of subsection (c) [set out as a note under section 8140 of Title 5, Government Organization and Employees]—

''(1) with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after September 30, 1982, shall take effect as of October 1, 1982; and

''(2) with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated before October 1, 1982, shall take effect as of October 1, 1983.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 401 of Pub. L. 95–588 provided that: ''The amendments made by this Act [see Tables for classification] to title 38, United States Code, shall become effective on January 1, 1979.''

EFFECTIVE DATE OF 1977 AMENDMENTS

Section 501 of Pub. L. 95–202 provided that: ''The provisions of this Act [see Tables for classification] shall become effective on the first day of the first month beginning 60 days after the date of enactment of this Act [Nov. 23, 1977], except that the provisions of title I and section 304(a)(1)(A) shall be effective retroactively to October 1, 1977, the provisions of sections 201 and 202 shall become effective on January 1, 1978, the provisions of section 203 shall be effective retroactively to May 31, 1976, and the provisions of sections 301, 302(2), 304(a)(1)(B), 304(a)(2), 305(a)(3), 305(b)(2), 305(b)(3), 305(b)(4), 305(c), 306, 307, 308, 309, and 310 and of title IV shall be effective upon enactment [Nov. 23, 1977].''

Amendment by Pub. L. 95–126 effective Oct. 8, 1977, see section 5 of Pub. L. 95–126, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 101 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–198 effective Jan. 1, 1972, see section 6 of Pub. L. 92–198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Section 405 of Pub. L. 90–77 provided that:

''(a) Except as provided in subsections (b) and (c) of this section, this Act [see Tables for classification] shall become effective on the first day of the first calendar month which begins more than ten days after the date of enactment of this Act [Aug. 31, 1967].

''(b) The amendments made by section 203 of this Act [amending sections 602 and 612 [now 1702 and 1712 of this title] shall become effective upon enactment [Aug. 31, 1967].

''(c) The amendments made by title II [§§201–204] of this Act [amending this section] relating to the payment of burial benefits in the case of veterans of the Vietnam era shall become effective on the date of enactment of this Act [Aug. 31, 1967]. If the burial allowance authorized by section 902 [now 2302] of title 38, United States Code is payable solely by virtue of the enactment of this Act, the two-year period for filing applications, referred to in section 904 [now 2304] of such title 38, shall not end, with respect to an individual whose death occurred prior to the enactment of this Act; before the expiration of the two-year period which begins on the date of enactment of this Act; or in any case involving the correction of a discharge after the date of enactment of this Act; before the expiration of two years from the date of such correction.''

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108–454, §1(a), Dec. 10, 2004, 118 Stat. 3598, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Benefits Improvement Act of 2004'.''

Pub. L. 108–454, title I, §101, Dec. 10, 2004, 118 Stat. 3600, provided that: ''This title [amending sections 3011, 3012, 3032, 3232, 3452, 3501, 3512, 3532, 3672, 3675, 3677, 3684, 3687, and 3694 of this title and enacting provisions set out as notes under sections 3032, 3233, 3675, and 3687 of this title and section 16131 of Title 10, Armed Forces] may be cited as the 'Veterans Earn and Learn Act of 2004'.''

Pub. L. 108–445, §1, Dec. 3, 2004, 118 Stat. 2636, provided that: ''This Act [enacting section 7456A of this title, amending sections 7404, 7431 to 7433, and 7452 of this title, omitting sections 7434 to 7440 of this title, and enacting provisions set out as notes under section 7431 of this title] may be cited as the 'Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004'.''

Pub. L. 108–422, §1(a), Nov. 30, 2004, 118 Stat. 2379, provided that:''This Act [enacting sections 1744, 7327, 7328, and 8118 of this title, amending sections 305, 1703, 1710B, 1720D, 1741, 2013, 7401, 7803, 8104, 8109, 8111, 8122, and 8164 to 8166 of this title, repealing section 8116 of this title, enacting provisions set out as notes under sections 1710B, 1744, 7327, 7328, 7451, 8110, and 8118 of this title, and amending provisions set out as a note under section 1710B of this title] may be cited as the 'Veterans Health Programs Improvement Act of 2004'.''

Pub. L. 108–363, §1, Oct. 25, 2004, 118 Stat. 1705, provided that: ''This Act [enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 2004'.''

SHORT TITLE OF 2003 AMENDMENTS

Pub. L. 108–183, §1(a), Dec. 16, 2003, 117 Stat. 2651, provided that: ''This Act [enacting sections 1821, 4113, 5109B, and 7112 of this title and section 657f of Title 15, Commerce and Trade, amending sections 103, 107, 315, 544, 1104, 1112, 1303, 1311, 1322, 1729A, 1804, 1811, 1831, 1834, 1917, 1952, 1974, 2101, 2102, 2303, 2307, 2402, 2408, 3015, 3452, 3462, 3471, 3485, 3512, 3532, 3534, 3542, 3564, 3675, 3687, 3692, 3702, 3729, 3732, 3733, 3902, 4102A, 5101, 5102, 5103, 5121, 5301, 5317, 5318, 6105, and 7723 of this title, repealing sections 3698 and 3699 of this title, enacting provisions set out as notes under sections 103, 107, 1154, 1917, 2102, 2402, 3452, 3462, 3485, 3512, 3532, 3698, 3729, 4102A, 4113, 5101, 5102, 5103, 5121, 6105, and 7723 of this title, amending provisions set out as a note under section 103 of this title, and repealing provisions set out as a note under section 5101 of this title] may be cited as the 'Veterans Benefits Act of 2003'.''

Pub. L. 108–170, §1(a), Dec. 6, 2003, 117 Stat. 2042, provided that: ''This Act [enacting sections 7307 and 7364A of this title, amending sections 516, 1701, 1710, 1710A, 1712, 1718, 1720, 1722A, 1734, 2041, 2065, 7303, 7316, 7321, 7366, 7368, 7401 to 7405, 7409, 7421, 7454, 7802, 8104, 8107, 8121, 8153, and 8163 to 8165 of this title and section 1680f of Title 25, Indians, enacting provisions set out as notes under sections 7316, 7401, 7454, and 8121 of this title and section 1680f of Title 25, and amending provisions set out as notes under sections 1710B and 1712A of this title] may be cited as the 'Veterans Health Care, Capital Asset, and Business Improvement Act of 2003'.''

Pub. L. 108–147, §1, Dec. 3, 2003, 117 Stat. 1885, provided that: ''This Act [enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 2003'.''

SHORT TITLE OF 2002 AMENDMENTS

Pub. L. 107–330, §1(a), Dec. 6, 2002, 116 Stat. 2820, provided that: ''This Act [enacting section 3707A of this title, amending sections 103, 107, 112, 1114, 1115, 1160, 1162, 1311, 1313, 1314, 1562, 1701, 1705, 1707, 1710, 1729B, 1781, 2106, 2301, 2306, 2411, 3011, 3014A, 3018C, 3031, 3035, 3103, 3485, 3512, 3674, 3689, 3703, 3734, 7261, 7292, and 7315 of this title, section 6103 of Title 26, Internal Revenue Code, and section 511 of Title 50, Appendix, War and National Defense, enacting provisions set out as notes under sections 103, 112, 1562, 2306, 2409, 3035, 3103, 3512, 3703, 3729, 7261, and 7292 of this title and section 2412 of Title 28, Judiciary and Judicial Procedure, and amending provisions set out as notes under sections 2306 and 2400 of this title] may be cited as the 'Veterans Benefits Act of 2002'.''

Pub. L. 107–288, §1(a), Nov. 7, 2002, 116 Stat. 2033, provided that: ''This Act [enacting sections 4112 and 4215 of this title, amending sections 3117, 4101 to 4104, 4106, 4107, 4109, 4211, 4212, and 4214 of this title, repealing section 4104A of this title, and enacting provisions set out as notes under sections 4100, 4101, 4102, 4102A, 4103A, 4106, 4107, 4211, 4214, and 4215 of this title] may be cited as the 'Jobs for Veterans Act'.''

Pub. L. 107–287, §1, Nov. 7, 2002, 116 Stat. 2024, provided that: ''This Act [enacting sections 1785, 7325, 7326, and 8117 of this title, amending sections 308 and 8111A of this title and section 5315 of Title 5, Government Organization and Employees, enacting provisions set out as notes under sections 7325 and 7326 of this title, and amending provisions set out as a note preceding section 8117 of this title] may be cited as the 'Department of Veterans Affairs Emergency Preparedness Act of 2002'.''

Pub. L. 107–247, §1, Oct. 23, 2002, 116 Stat. 1517, provided that: ''This Act [enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 2002'.''

Pub. L. 107–135, §1(a), Jan. 23, 2002, 115 Stat. 2446, provided that: ''This Act [enacting sections 1782 to 1784 and 7324 of this title, amending sections 103, 1701, 1705 to 1707, 1710, 1711, 1712A, 1714, 1729, 1729A, 1781, 7303, 7306, 7426, 7451, 7454, 7631, 7672, 7673, 7682, 7683, 8110 to 8111A, 8152, 8502, 8520, and 8521 of this title and sections 8415 and 8422 of Title 5, Government Organization and Employees, renumbering section 1713 of this title as section 1781 of this title, repealing sections 7676 and 7684 of this title, and enacting provisions set out as notes under sections 1705, 1710, 7303, 7311, 7324, 7451, 7454, 7631, and 7682 of this title and section 8415 of Title 5] may be cited as the 'Department of Veterans Affairs Health Care Programs Enhancement Act of 2001'.''

SHORT TITLE OF 2001 AMENDMENTS

Pub. L. 107–103, § 1(a), Dec. 27, 2001, 115 Stat. 976, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Education and Benefits Expansion Act of 2001'.''

Pub. L. 107–95, § 1(a), Dec. 21, 2001, 115 Stat. 903, provided that: ''This Act [enacting chapter 20 of this title, amending sections 1706, 1720A, 2031, 2033, 2034, 2051, 2052, 4103A, 4104, 8122, and 8162 of this title and sections 1437f and 11312 of Title 42, The Public Health and Welfare, renumbering sections 1771 to 1774 of this title as sections 2031 to 2034 of this title, respectively, section 3735 of this title as section 2041 of this title, and sections 3772 to 3775 of this title as sections 2051 to 2054 of this title, respectively, repealing sections 3771 and 4111 of this title and section 11448 of Title 42, enacting provisions set out as notes under sections 2001, 2061, and 8162 of this title, and repealing provisions set out as notes under section 7721 of this title] may be cited as the 'Homeless Veterans Comprehensive Assistance Act of 2001'.''

Pub. L. 107–94, § 1(a), Dec. 21, 2001, 115 Stat. 900, provided that: ''This Act [amending sections 1114, 1115, 1162, 1311, 1313, and 1314 of this title and enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Rate Amendments of 2001'.''

Pub. L. 107–14, § 1(a), June 5, 2001, 115 Stat. 25, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Survivor Benefits Improvements Act of 2001'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–475, § 1, Nov. 9, 2000, 114 Stat. 2096, provided that: ''This Act [enacting sections 5100, 5102 to 5103A, and 5126 of this title, amending sections 5106 and 5107 of this title, repealing former sections 5102 and 5103 of this title, and enacting provisions set out as a note under section 5107 of this title] may be cited as the 'Veterans Claims Assistance Act of 2000'.''

Pub. L. 106–419, § 1(a), Nov. 1, 2000, 114 Stat. 1822, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Benefits and Health Care Improvement Act of 2000'.''

Pub. L. 106–413, § 1, Nov. 1, 2000, 114 Stat. 1798, provided that: ''This Act [enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 2000'.''

SHORT TITLE OF 1999 AMENDMENTS

Pub. L. 106–118, § 1(a), Nov. 30, 1999, 113 Stat. 1601, provided that: ''This Act [amending sections 1114, 1115, 1162, 1311, 1313, and 1314 of this title and enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 1999'.''

Pub. L. 106–117, § 1(a), Nov. 30, 1999, 113 Stat. 1545, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Millennium Health Care and Benefits Act'.''

Pub. L. 106–117, title V, § 501(a), Nov. 30, 1999, 113 Stat. 1573, provided that: ''This section [amending section 1318 of this title] may be cited as the 'John William Rolen Act'.''

Pub. L. 106–117, title X, § 1001, Nov. 30, 1999, 113 Stat. 1587, provided that: ''This title [enacting sections 7257 and 7299 of this title, amending sections 7253, 7254, 7281, and 7296 to 7298 of this title, and enacting provisions set out as notes under sections 7253 and 7296 of this title] may be cited as the 'Court of Appeals for Veterans Claims Amendments of 1999'.''

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–368, § 1(a), Nov. 11, 1998, 112 Stat. 3315, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Programs Enhancement Act of 1998'.''

Pub. L. 105–368, title VIII, § 801, Nov. 11, 1998, 112 Stat. 3352, provided that: ''This title [enacting sections 7671 to 7676 and 7681 to 7684 of this title, amending sections 7601 to 7604, 7632, and 7636 of this title, and repealing provisions set out as a note under section 7601 of this title] may be cited as the 'Department of Veterans Affairs Health Care Personnel Incentive Act of 1998'.''

Pub. L. 105–277, div. C, title XVI, § 1601, Oct. 21, 1998, 112 Stat. 2681–742, provided that: ''This title [enacting section 1118 of this title, amending sections 1113 and 1117 of this title, and enacting provisions set out as a note under section 1117 of this title] may be cited as the 'Persian Gulf War Veterans Act of 1998'.''

Pub. L. 105–178, title VIII, § 8201, June 9, 1998, 112 Stat. 492, provided that: ''This subtitle [subtitle B (§§ 8201–8209) of title VIII of Pub. L. 105–178, amending sections 1110, 1131, 1311, 2102, 3015, and 3902 of this title and section 16131 of Title 10, Armed Forces, and enacting provisions set out as notes under sections 1311, 1521, 2102, 3015, and 3902 of this title and sections 1174 and 16131 of Title 10] may be cited as the 'Veterans Benefits Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENTS

Pub. L. 105–114, § 1(a), Nov. 21, 1997, 111 Stat. 2277, provided that: ''This Act [enacting sections 319, 516, 1771 to 1774, and 7322 of this title, amending sections 1710, 1717, 1720, 1720A, 1720C, 1801, 1804, 1806, 2303, 3015, 3018C, 3680A, 3735, 3761, 3762, 5310, 7618, 8153, and 8169 of this title and sections 11448 and 11450 of Title 42, The Public Health and Welfare, repealing section 8168 of this title, enacting provisions set out as notes under sections 319, 516, 1710, 1801, 7322, and 7611 of this title, amending provisions set out as a note under section 7721 of this title, and repealing provisions set out as notes under sections 527, 1712, 1718, and 7721 of this title] may be cited as the 'Veterans' Benefits Act of 1997'.''

Pub. L. 105–98, § 1(a), Nov. 19, 1997, 111 Stat. 2155, provided that: ''This Act [amending sections 1114, 1115, 1162, 1311, 1313, and 1314 of this title and enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Rate Amendments of 1997'.''

Pub. L. 105–33, title VIII, § 8001(a), Aug. 5, 1997, 111 Stat. 663, provided that: ''This title [enacting sections 1103, 1303, and 1729A of this title, amending sections 712, 1710, 1722A, 1729, 3720, 3726, 3729, 3732, 5302, 5317, and 5503 of this title, enacting provisions set out as notes under sections 712, 1729, 1729A, and 3726 of this title, and amending provisions set out as a note under section 1710 of this title] may be cited as the 'Veterans Reconciliation Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENTS

Section 1(a) of Pub. L. 104–275 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Improvements Act of 1996'.''

Section 401 of title IV of Pub. L. 104–275 provided that: ''This title [amending sections 1315, 1965, 1967 to 1971, 1973, 1974, 1977, 3017, and 3224 of this title and enacting provisions set out as notes under sections 1965 and 1968 of this title] may be cited as the 'Veterans' Insurance Reform Act of 1996'.''

Pub. L. 104–263, § 1, Oct. 9, 1996, 110 Stat. 3212, provided that: ''This Act [enacting provisions set out as a note under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 1996'.''

Pub. L. 104–262, § 1(a), Oct. 9, 1996, 110 Stat. 3177, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Health Care Eligibility Reform Act of 1996'.''

Pub. L. 104–106, div. B, title XXVIII, § 2822(a), Feb. 10, 1996, 110 Stat. 556, provided that: ''This section [enacting section 3708 of this title and provisions set out as a note under section 3708 of this title] may be cited as the 'Military Housing Assistance Act of 1995'.''

SHORT TITLE OF 1995 AMENDMENT

Pub. L. 104–57, § 1, Nov. 22, 1995, 109 Stat. 555, provided that: ''This Act [enacting provisions set out as notes

under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 1995'.''

SHORT TITLE OF 1994 AMENDMENTS

Pub. L. 103–452, §1(a), Nov. 2, 1994, 108 Stat. 4783, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Health Programs Extension Act of 1994'.''

Section 1(a) of Pub. L. 103–446 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Improvements Act of 1994'.''

Section 101 of title I of Pub. L. 103–446 provided that: ''This Act [probably means title I of Pub. L. 103–446, see Tables for classification] may be cited as the 'Persian Gulf War Veterans' Benefits Act'.''

Pub. L. 103–418, §1, Oct. 25, 1994, 108 Stat. 4336, provided that: ''This Act [enacting provisions set out as notes under section 1114 of this title] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 1994'.''

Pub. L. 103–353, §1, Oct. 13, 1994, 108 Stat. 3149, provided that: ''This Act [see Tables for classification] may be cited as the 'Uniformed Services Employment and Reemployment Rights Act of 1994'.''

Pub. L. 103–271, §1, July 1, 1994, 108 Stat. 740, provided that: ''This Act [see Tables for classification] may be cited as the 'Board of Veterans' Appeals Administrative Procedures Improvement Act of 1994'.''

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–140, §1(a), Nov. 11, 1993, 107 Stat. 1485, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation Rates Amendments of 1993'.''

Pub. L. 103–66, title XII, §12001, Aug. 10, 1993, 107 Stat. 413, provided that: ''This title [see Tables for classification] may be cited as the 'Veterans Reconciliation Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENTS

Pub. L. 102–590, §1, Nov. 10, 1992, 106 Stat. 5136, provided that: ''This Act [see Tables for classification] may be cited as the 'Homeless Veterans Comprehensive Service Programs Act of 1992'.''

Pub. L. 102–585, §1(a), Nov. 4, 1992, 106 Stat. 4943, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Health Care Act of 1992'.''

Pub. L. 102–585, title I, §101, Nov. 4, 1992, 106 Stat. 4944, provided that: ''This title [see Tables for classification] may be cited as the 'Women Veterans Health Programs Act of 1992'.''

Pub. L. 102–578, §1, Oct. 30, 1992, 106 Stat. 4774, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Radiation Exposure Amendments of 1992'.''

Pub. L. 102–568, §1(a), Oct. 29, 1992, 106 Stat. 4320, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Act of 1992'.''

Pub. L. 102–568, title I, §101, Oct. 29, 1992, 106 Stat. 4321, provided that: ''This title [see Tables for classification] may be cited as the 'Dependency and Indemnity Compensation Reform Act of 1992'.''

Pub. L. 102–547, §1, Oct. 28, 1992, 106 Stat. 3633, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Home Loan Program Amendments of 1992'.''

Pub. L. 102–510, §1, Oct. 24, 1992, 106 Stat. 3318, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 1992'.''

Pub. L. 102–405, §1(a), Oct. 9, 1992, 106 Stat. 1972, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Medical Programs Amendments of 1992'.''

SHORT TITLE OF 1991 AMENDMENTS

Pub. L. 102–152, §1(a), Nov. 12, 1991, 105 Stat. 985, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation Rate Amendments of 1991'.''

Pub. L. 102–127, §1, Oct. 10, 1991, 105 Stat. 619, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Educational Assistance Amendments of 1991'.''

Section 1(a) of Pub. L. 102–86 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Programs Improvement Act of 1991'.''

Section 1(a) of Pub. L. 102–83 provided that: ''This Act [see Tables for classification] may be cited as the 'Department of Veterans Affairs Codification Act'.''

Section 1(a) of Pub. L. 102–40 provided that: ''This Act [see Tables for classification] may be cited as the 'Department of Veterans Affairs Health-Care Personnel Act of 1991'.''

Section 101 of title I of Pub. L. 102–40 provided that: ''This title [see Tables for classification] may be cited as the 'Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991'.''

Section 201 of title II of Pub. L. 102–40 provided that: ''This title [see Tables for classification] may be cited as the 'Department of Veterans Affairs Labor Relations Improvement Act of 1991'.''

Section 331 of Pub. L. 102–25 provided that: ''This part [part C (§§331–341) of title III of Pub. L. 102–25, see Tables for classification] may be cited as the 'Persian Gulf War Veterans' Benefits Act of 1991'.''

Pub. L. 102–4, §1, Feb. 6, 1991, 105 Stat. 11, provided that: ''This Act [see Tables for classification] may be cited as the 'Agent Orange Act of 1991'.''

Pub. L. 102–3, §1(a), Feb. 6, 1991, 105 Stat. 7, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–366, §1, Aug. 15, 1990, 104 Stat. 430, provided that: ''This Act [see Tables for classification] may be cited as the 'Department of Veterans Affairs Nurse Pay Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENTS

Section 1(a) of Pub. L. 101–237 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Amendments of 1989'.''

Section 301 of title III of Pub. L. 101–237 provided that: ''This title [see Tables for classification] may be cited as the 'Veterans Home Loan Indemnity and Restructuring Act of 1989'.''

Section 401 of title IV of Pub. L. 101–237 provided that: ''This title [see Tables for classification] may be cited as the 'Veterans Education and Employment Amendments of 1989'.''

Pub. L. 101–94, §1, Aug. 16, 1989, 103 Stat. 617, provided that: ''This Act [see Tables for classification] may be cited as the 'Court of Veterans Appeals Judges Retirement Act'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–689, §1, Nov. 18, 1988, 102 Stat. 4161, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits and Programs Improvement Act of 1988'.''

Pub. L. 100–687, div. A, §1(a), Nov. 18, 1988, 102 Stat. 4105, provided that: ''This division [see Tables for classification] may be cited as the 'Veterans' Judicial Review Act'.''

Pub. L. 100–687, div. B, §1001(a), Nov. 18, 1988, 102 Stat. 4122, provided that: ''This division [see Tables for classification] may be cited as the 'Veterans' Benefits Improvement Act of 1988'.''

For short title of Pub. L. 100–527 as the ''Department of Veterans Affairs Act'', see section 1 of Pub. L. 100–527, set out as a note under section 301 of this title.

Pub. L. 100–323, §1(a), May 20, 1988, 102 Stat. 556, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Employment, Training, and Counseling Amendments of 1988'.''

Section 1(a) of Pub. L. 100–322 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits and Services Act of 1988'.''

Pub. L. 100–321, § 1, May 20, 1988, 102 Stat. 485, provided that: ''This Act [see Tables for classification] may be cited as the 'Radiation-Exposed Veterans Compensation Act of 1988'.''

Pub. L. 100–253, § 1, Feb. 29, 1988, 102 Stat. 20, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Home Loan Program Emergency Amendments of 1988'.''

SHORT TITLE OF 1987 AMENDMENTS

Pub. L. 100–227, § 1(a), Dec. 31, 1987, 101 Stat. 1552, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation Cost-of-Living Adjustment Act of 1987'.''

Pub. L. 100–198, § 1(a), Dec. 21, 1987, 101 Stat. 1315, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987'.''

Pub. L. 100–48, § 1, June 1, 1987, 101 Stat. 331, provided that: ''This Act [see Tables for classification] may be cited as the 'New GI Bill Continuation Act'.''

SHORT TITLE OF 1986 AMENDMENTS

Section 1(a) of Pub. L. 99–576 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Improvement and Health-Care Authorization Act of 1986'.''

Pub. L. 99–272, title XIX, § 19001(a), Apr. 7, 1986, 100 Stat. 372, provided that: ''This title [see Tables for classification] may be cited as the 'Veterans' Health-Care Amendments of 1986'.''

Pub. L. 99–238, § 1, Jan. 13, 1986, 99 Stat. 1765, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation Rate Increase and Job Training Amendments of 1985'.''

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–166, § 1(a), Dec. 3, 1985, 99 Stat. 941, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Administration Health-Care Amendments of 1985'.''

SHORT TITLE OF 1984 AMENDMENTS

Pub. L. 98–543, § 1(a), Oct. 24, 1984, 98 Stat. 2735, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Benefits Improvement Act of 1984'.''

For short title of Pub. L. 98–542 as the ''Veterans' Dioxin and Radiation Exposure Compensation Standards Act'', see section 1 of Pub. L. 98–542, set out as a note under section 1154 of this title.

Pub. L. 98–528, § 1(a), Oct. 19, 1984, 98 Stat. 2686, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Health Care Act of 1984'.''

Pub. L. 98–525, title VII, § 701, Oct. 19, 1984, 98 Stat. 2553, as amended by Pub. L. 100–48, § 2, June 1, 1987, 101 Stat. 331, provided that: ''This title [see Tables for classification] may be cited as the 'Montgomery GI Bill Act of 1984'.''

Section 1 of Pub. L. 98–223 provided in part: ''That (a) this Act [see Tables for classification] may be cited as the 'Veterans' Compensation and Program Improvements Amendments of 1984'.''

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–160, § 1(a), Nov. 21, 1983, 97 Stat. 993, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Health Care Amendments of 1983'.''

SHORT TITLE OF 1982 AMENDMENTS

Section 1(a) of Pub. L. 97–306 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation, Education, and Employment Amendments of 1982'.''

Pub. L. 97–251, § 1(a), Sept. 8, 1982, 96 Stat. 711, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982'.''

Pub. L. 97–174, § 1, May 4, 1982, 96 Stat. 70, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act'.''

SHORT TITLE OF 1981 AMENDMENTS

Pub. L. 97–72, § 1(a), Nov. 3, 1981, 95 Stat. 1047, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Health Care, Training, and Small Business Loan Act of 1981'.''

Pub. L. 97–72, title III, § 301, Nov. 3, 1981, 95 Stat. 1055, provided that: ''This title [see Tables for classification] may be cited as the 'Veterans' Small Business Loan Act of 1981'.''

Pub. L. 97–66, § 1(a), Oct. 17, 1981, 95 Stat. 1026, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981'.''

Pub. L. 97–37, § 1(a), Aug. 14, 1981, 95 Stat. 935, provided that: ''this Act [see Tables for classification] may be cited as the 'Former Prisoner of War Benefits Act of 1981'.''

SHORT TITLE OF 1980 AMENDMENTS

Pub. L. 96–466, § 1(a), Oct. 17, 1980, 94 Stat. 2171, provided that: ''this Act [see Tables for classification] may be cited as the 'Veterans' Rehabilitation and Education Amendments of 1980'.''

Pub. L. 96–385, § 1(a), Oct. 7, 1980, 94 Stat. 1528, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Disability Compensation and Housing Benefits Amendments of 1980'.''

Pub. L. 96–330, § 1(a), Aug. 26, 1980, 94 Stat. 1030, provided that: ''this Act [see Tables for classification] may be cited as the 'Veterans' Administration Health-Care Amendments of 1980'.''

SHORT TITLE OF 1979 AMENDMENTS

Pub. L. 96–151, § 1(a), Dec. 20, 1979, 93 Stat. 1092, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Health Programs Extension and Improvement Act of 1979'.''

Pub. L. 96–128, § 1, Nov. 28, 1979, 93 Stat. 982, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979'.''

Section 1(a) of Pub. L. 96–22 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Health Care Amendments of 1979'.''

SHORT TITLE OF 1978 AMENDMENTS

Section 1 of Pub. L. 95–588 provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' and Survivors' Pension Improvement Act of 1978'.''

Pub. L. 95–520, § 1, Oct. 26, 1978, 92 Stat. 1820, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Administration Programs Extension Act of 1978'.''

Pub. L. 95–479, § 1(a), Oct. 18, 1978, 92 Stat. 1560, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Disability Compensation and Survivors' Benefits Act of 1978'.''

Pub. L. 95–476, § 1(a), Oct. 18, 1978, 92 Stat. 1497, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Housing Benefits Act of 1978'.''

SHORT TITLE OF 1977 AMENDMENTS

Pub. L. 95–204, § 1, Dec. 2, 1977, 91 Stat. 1455, provided: ''That this Act [see Tables for classification] be cited as the 'Veterans and Survivors Pension Adjustment Act of 1977'.''

Section 1 of Pub. L. 95–202 provided: ''That this Act [see Tables for classification] may be cited as the 'GI Bill Improvement Act of 1977'.''

Pub. L. 95–201, §1, Nov. 23, 1977, 91 Stat. 1429, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Administration Physician and Dentist Pay Comparability Amendments of 1977'.''

Pub. L. 95–117, §1, Oct. 3, 1977, 91 Stat. 1063, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1977'.''

Pub. L. 95–62, §1, July 5, 1977, 91 Stat. 262, provided: ''That this Act [see Tables for classification] may be cited as the 'State Veterans' Home Assistance Improvement Act of 1977'.''

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94–581, §1, Oct. 21, 1976, 90 Stat. 2842, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Omnibus Health Care Act of 1976'.''

Pub. L. 94–581, title II, §201, Oct. 21, 1976, 90 Stat. 2855, provided that: ''This title [see Tables for classification] may be cited as the 'Veterans Medical Technical and Conforming Amendments of 1976'.''

Pub. L. 94–502, §1, Oct. 15, 1976, 90 Stat. 2383, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Education and Employment Assistance Act of 1976'.''

Pub. L. 94–502, §401, Oct. 15, 1976, 90 Stat. 2392, provided that: ''This title [see Tables for classification] may be cited as the 'Post-Vietnam Era Veterans' Educational Assistance Act of 1977'.''

Pub. L. 94–433, §1, Sept. 30, 1976, 90 Stat. 1374, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1976'.''

Pub. L. 94–432, §1, Sept. 30, 1976, 90 Stat. 1369, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans and Survivors Pension Adjustment Act of 1976'.''

Pub. L. 94–324, §1, June 30, 1976, 90 Stat. 720, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans Housing Amendments Act of 1976'.''

SHORT TITLE OF 1975 AMENDMENTS

Section 1 of Pub. L. 94–169 provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans and Survivors Pension Interim Adjustment Act of 1975'.''

Pub. L. 94–123, §1, Oct. 22, 1975, 89 Stat. 669, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Administration Physician and Dentist Pay Comparability Act of 1975'.''

Pub. L. 94–71, §1, Aug. 5, 1975, 89 Stat. 395, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1975'.''

SHORT TITLE OF 1974 AMENDMENTS

Pub. L. 93–602, title II, §201, Jan. 2, 1975, 88 Stat. 1958, provided that: ''This title [see Tables for classification] may be cited as the 'Veterans' Education and Rehabilitation Equalization Amendments Act of 1974'.''

Pub. L. 93–569, §1, Dec. 31, 1974, 88 Stat. 1863, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Housing Act of 1974'.''

Pub. L. 93–538, §1, Dec. 22, 1974, 88 Stat. 1736, provided: ''That this Act [see Tables for classification] may be cited as the 'Disabled Veterans' and Servicemen's Automobile and Adaptive Equipment Amendments of 1974'.''

Pub. L. 93–527, §1, Dec. 21, 1974, 88 Stat. 1702, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans and Survivors Pension Adjustment Act of 1974'.''

Pub. L. 93–508, §1, Dec. 3, 1974, 88 Stat. 1578, provided: ''That this Act [see Tables for classification] may be cited as the 'Vietnam Era Veterans' Readjustment Assistance Act of 1974'.''

Pub. L. 93–295, §1, May 31, 1974, 88 Stat. 180, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Disability Compensation and Survivor Benefits Act of 1974'.''

Pub. L. 93–289, §1, May 24, 1974, 88 Stat. 165, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Insurance Act of 1974'.''

SHORT TITLE OF 1973 AMENDMENTS

Pub. L. 93–82, §1, Aug. 2, 1973, 87 Stat. 179, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Health Care Expansion Act of 1973'.''

Pub. L. 93–43, §1, June 18, 1973, 87 Stat. 75, provided: ''That this Act [see Tables for classification] may be cited as the 'National Cemeteries Act of 1973'.''

SHORT TITLE OF 1972 AMENDMENTS

Pub. L. 92–541, §1, Oct. 24, 1972, 86 Stat. 1100, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972'.''

Section 1 of Pub. L. 92–540 provided: ''That this Act [see Tables for classification] may be cited as the 'Vietnam Era Veterans' Readjustment Assistance Act of 1972'.''

Section 501 of title V of Pub. L. 92–540 provided that: ''This title [see Tables for classification] may be cited as the 'Veterans' Employment and Readjustment Act of 1972'.''

Pub. L. 92–328, §1, June 30, 1972, 86 Stat. 393, provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Compensation and Relief Act of 1972'.''

SHORT TITLE OF 1971 AMENDMENT

Pub. L. 91–666, §1, Jan. 11, 1971, 84 Stat. 1998, provided: ''That this Act [see Tables for classification] may be cited as the 'Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970'.''

SHORT TITLE OF 1970 AMENDMENTS

Pub. L. 91–506, §1, Oct. 23, 1970, 84 Stat. 1108, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Housing Act of 1970'.''

Pub. L. 91–219, §1, Mar. 26, 1970, 84 Stat. 76, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Education and Training Amendments Act of 1970'.''

SHORT TITLE OF 1967 AMENDMENT

Section 1 of Pub. L. 90–77 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Pension and Readjustment Assistance Act of 1967'.''

SHORT TITLE OF 1966 AMENDMENTS

Pub. L. 89–785, §1, Nov. 7, 1966, 80 Stat. 1368, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans Hospitalization and Medical Services Modernization Amendments of 1966'.''

Section 1 of Pub. L. 89–358 provided that: ''This Act [see Tables for classification] may be cited as the 'Veterans' Readjustment Benefits Act of 1966'.''

SHORT TITLE OF 1959 AMENDMENT

Pub. L. 86–211, §1, Aug. 29, 1959, 73 Stat. 432, provided: ''That this Act [see Tables for classification] may be cited as the 'Veterans' Pension Act of 1959'.''

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.

REDESIGNATION OF SECTIONS; COORDINATION OF REDESIGNATIONS WITH OTHER AMENDMENTS BY PUB. L. 102–83

Section 5 of Pub. L. 102–83 provided that:

''(a) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBERS.—Each section contained in any of chapters 11 through 23 is redesignated by replacing the first digit of the section number with the number of the chapter containing that section. Each section contained in any of chapters 24 through 42 is redesignated so that the first two digits of the section number of that section are the same as the chapter number of the chapter containing that section.

''(b) TABLES OF SECTIONS AND CHAPTERS.—(1) The tables of sections at the beginning of the chapters referred to in subsection (a) are revised so as to conform the section references in those tables to the redesignations made by that subsection.

''(2) The table of chapters before part I and the tables of chapters at the beginning of parts I, II, and III are revised so as to conform the section references in those tables to the redesignations made by subsection (a).

''(c) CROSS-REFERENCES.—(1) Each provision of title 38, United States Code, that contains a reference to a section redesignated by subsection (a) is amended so that the reference refers to the section as redesignated.

''(2) Any reference in a provision of law other than title 38, United States Code, to a section redesignated by subsection (a) shall be deemed to refer to the section as so redesignated.

''(d) RULE FOR EXECUTION.—The redesignations made by subsection (a) and the amendments made by subsections (b) and (c) shall be executed after any other amendments made by this Act [see Tables for classification].''

STUDY OF BENEFITS PAYABLE TO PERSONS RESIDING OUTSIDE THE UNITED STATES; REPORT AND RECOMMENDATIONS NOT LATER THAN FEBRUARY 1, 1980

Pub. L. 96–22, title IV, § 402, June 13, 1979, 93 Stat. 63, authorized Administrator of Veterans' Affairs, in consultation with Secretary of State, to carry out a comprehensive study of benefits payable under this title to persons residing outside the fifty States and the District of Columbia and required submission of a report to Congress and to President on results of such study not later than Feb. 1, 1980.

DISABILITY COMPENSATION OR DEPENDENCY AND INDEMNITY COMPENSATION AWARD; EFFECTIVE DATE

Section 6(b) of Pub. L. 91–621 provided effective date for an award by Veteran's Administration arising from injury or death occurring prior to Dec. 31, 1970, and based on a claim arising from amendments made to pars. (21)(C) and (25)(F) of this section and section 5305 of this title, prior to repeal by Pub. L. 107–372, title II, § 271(3), Dec. 19, 2002, 116 Stat. 3094.

PROC. NO. 4373. TERMINAL DATE RESPECTING SERVICE DURING VIETNAM ERA

Proc. No. 4373, May 7, 1975, 40 F.R. 20257, provided:

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval, or air service during that period.

The signing of the cease-fire agreements and implementing protocols on January 27, 1973, between the United States of America and the Republic of Vietnam, on the one hand, and the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam on the other hand, has terminated active participation by the Armed Forces of the United States in the Vietnam conflict.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the ''Vietnam era.''

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD.

SECRETARY AND DEPARTMENT DEFINED

Pub. L. 106–117, § 3, Nov. 30, 1999, 113 Stat. 1547, provided that: ''For purposes of this Act [see Tables for classification]—

''(1) the term 'Secretary' means the Secretary of Veterans Affairs; and

''(2) the term 'Department' means the Department of Veterans Affairs.''

DEFINITION OF ADMINISTRATOR FOR 1988 AMENDMENTS

Pub. L. 100–687, div. B, § 1002, Nov. 18, 1988, 102 Stat. 4122, provided that: ''For purposes of this division [see Tables for classification], the term 'Administrator' means the Administrator of Veterans' Affairs.''

Section 3 of Pub. L. 100–322 provided that: ''For purposes of this Act [see Tables for classification], the term 'Administrator' means the Administrator of Veterans' Affairs.''

§ 102. Dependent parents

(a) Dependency of a parent, which may arise before or after the death of a veteran, shall be determined in accordance with regulations prescribed by the Secretary.

(b) Dependency of a parent shall not be denied (1) solely because of remarriage, or (2) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Secretary shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support.

(c) For the purposes of this section, in determining monthly income the Secretary shall not consider any payments under laws administered by the Secretary because of disability or death or payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 89–358, § 4(e), (f), Mar. 3, 1966, 80 Stat. 24; Pub. L. 92–540, title IV, § 408, Oct. 24, 1972, 86 Stat. 1092; Pub. L. 94–432, title IV, § 402, Sept. 30, 1976, 90 Stat. 1372; Pub. L. 99–576, title VII, § 701(1), Oct. 28, 1986, 100 Stat. 3289; Pub. L. 102–54, § 14(a)(2), June 13, 1991, 105 Stat. 282; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Subsecs. (a), (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary shall'' for ''Administrator shall''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–54 substituted ''(c)'' for ''(C)'' as subsec. designation.

1986—Pub. L. 99–576, §701(1)(B), substituted ''Dependent parents'' for ''Dependent parents; husbands'' in section catchline.

Subsec. (a). Pub. L. 99–576, §701(1)(A)(ii), (iii), (v), struck out par. (1) designation and redesignated par. (2) of subsec. (a) as subsec. (b) and par. (3) of subsec. (a) as subsec. (C).

Subsec. (b). Pub. L. 99–576, §701(1)(A)(i), (iii), (iv), redesignated former subsec. (a)(2) as subsec. (b) and substituted ''(1)'' and ''(2)'' for ''(A)'' and ''(B)'', respectively. Former subsec. (b), which read ''For the purposes of this title, (1) the term 'wife' includes the husband of any female veteran; and (2) the term 'widow' includes the widower of any female veteran'', was struck out.

Subsec. (c). Pub. L. 99–576, §701(1)(A)(v), redesignated former subsec. (a)(3) as subsec. (C) and substituted ''For the purposes of this section,'' for ''For the purposes of this subsection''.

1976—Subsec. (a)(2). Pub. L. 94–432 substituted prohibition against denial of dependency of a parent ''(B) in any case in any State where the monthly income for a mother or father does not exceed minimum levels which the Administrator shall prescribe by regulation, giving due regard to the marital status of the mother or father and additional members of the family whom the mother or father is under a moral or legal obligation to support'' for such prohibition ''(B) in any case in any State where the monthly income for a mother or father, not living together, is not more than $105, or where the monthly income for a mother and father living together, is not more than $175, plus, in either case, $45, for each additional member of the family whom the father or mother is under a moral or legal obligation to support, as determined by the Administrator''.

1972—Pub. L. 92–540, §408(2), substituted ''Dependent parents; husbands'' for ''Dependent parents and dependent husbands'' in section catchline.

Subsec. (b). Pub. L. 92–540, §408(1), struck out exception which made definition of terms inapplicable to chapter 19 of this title and struck out from definitions of ''wife'' and ''widow'' provisions relating to the ability of such persons to maintain and support themselves.

1966—Subsec. (a)(2). Pub. L. 89–358, §4(e), substituted ''Dependency'' for ''Except for the purposes of chapter 33 of this title, dependency''.

Subsec. (b). Pub. L. 89–358, §4(f), struck out from introductory parenthetical phrase reference to chapter 33 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–432 effective Sept. 30, 1976, see section 405(a) of Pub. L. 94–432, set out as a note under section 1521 of this title.

§103. Special provisions relating to marriages

(a) Whenever, in the consideration of any claim filed by a person as the widow or widower of a veteran for gratuitous death benefits under laws administered by the Secretary, it is established by evidence satisfactory to the Secretary that such person, without knowledge of any legal impediment, entered into a marriage with such veteran which, but for a legal impediment, would have been valid, and thereafter cohabited with the veteran for one year or more immediately before the veteran's death, or for any period of time if a child was born of the purported marriage or was born to them before such marriage, the purported marriage shall be deemed to be a valid marriage, but only if no claim has been filed by a legal widow or widower of such veteran who is found to be entitled to such benefits. No duplicate payments shall be made by virtue of this subsection.

(b) Where a surviving spouse has been legally married to a veteran more than once, the date of original marriage will be used in determining whether the statutory requirement as to date of marriage has been met.

(c) In determining whether or not a person is or was the spouse of a veteran, their marriage shall be proven as valid for the purposes of all laws administered by the Secretary according to the law of the place where the parties resided at the time of the marriage or the law of the place where the parties resided when the right to benefits accrued.

(d)(1) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse of the veteran if the remarriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Secretary determines that the annulment was secured through fraud by either party or collusion.

(2)(A) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran if the remarriage has been terminated by death or divorce unless the Secretary determines that the divorce was secured through fraud or collusion.

(B) The remarriage after age 57 of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran. Notwithstanding the previous sentence, the remarriage after age 55 of the surviving spouse of a veteran shall not bar the furnishing of benefits under section 1781 of this title to such person as the surviving spouse of the veteran.

(3) If the surviving spouse of a veteran ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person benefits as the surviving spouse of the veteran shall not apply in the case of the benefits specified in paragraph (5).

(4) The first month of eligibility for benefits for a surviving spouse by reason of paragraph (2)(A) or (3) shall be the month after—

(A) the month of the termination of such remarriage, in the case of a surviving spouse described in paragraph (2)(A); or

(B) the month of the cessation described in paragraph (3), in the case of a surviving spouse described in that paragraph.

(5) Paragraphs (2)(A) and (3) apply with respect to benefits under the following provisions of this title:

(A) Section 1311, relating to dependency and indemnity compensation.

(B) Section 1781, relating to medical care for survivors and dependents of certain veterans.

(C) Chapter 35, relating to educational assistance.

(D) Chapter 37, relating to housing loans.

(e) The marriage of a child of a veteran shall not bar recognition of such child as the child of the veteran for benefit purposes if the marriage is void, or has been annulled by a court with basic authority to render annulment decrees unless the Secretary determines that the annulment was secured through fraud by either party or collusion.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1109; Pub. L. 87–674, § 2, Sept. 19, 1962, 76 Stat. 558; Pub. L. 90–77, title I, § 101(b), Aug. 31, 1967, 81 Stat. 178; Pub. L. 91–376, § 4, Aug. 12, 1970, 84 Stat. 789; Pub. L. 93–527, § 9(a), Dec. 21, 1974, 88 Stat. 1705; Pub. L. 99–576, title VII, § 701(2), Oct. 28, 1986, 100 Stat. 3290; Pub. L. 101–508, title VIII, § 8004(a), Nov. 5, 1990, 104 Stat. 1388–343; Pub. L. 102–83, § 4(a)(1), (2)(A)(i), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 106–117, title V, § 502(a), Nov. 30, 1999, 113 Stat. 1574; Pub. L. 107–135, title II, § 208(e)(1), Jan. 23, 2002, 115 Stat. 2463; Pub. L. 107–330, title I, § 101(a), Dec. 6, 2002, 116 Stat. 2821; Pub. L. 108–183, title I, § 101(a), title VII, § 708(a)(1), Dec. 16, 2003, 117 Stat. 2652, 2673.)

AMENDMENTS

2003—Subsec. (d)(2)(B). Pub. L. 108–183, § 101(a), substituted ''The remarriage after age 57 of the surviving spouse of a veteran shall not bar the furnishing of benefits specified in paragraph (5) to such person as the surviving spouse of the veteran. Notwithstanding the previous sentence, the remarriage after age 55'' for ''The remarriage after age 55''.

Subsec. (d)(4). Pub. L. 108–183, § 708(a)(1)(A)(i), substituted ''paragraph (2)(A) or (3)'' for ''this subsection'' in introductory provisions.

Subsec. (d)(4)(A). Pub. L. 108–183, § 708(a)(1)(A)(ii), substituted ''paragraph (2)(A)'' for ''paragraph (2)''.

Subsec. (d)(5). Pub. L. 108–183, § 708(a)(1)(B), substituted ''Paragraphs (2)(A)'' for ''Paragraphs (2)'' in introductory provisions.

2002—Subsec. (d)(2). Pub. L. 107–330 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(5)(B). Pub. L. 107–135 substituted ''1781'' for ''1713''.

1999—Subsec. (d). Pub. L. 106–117 designated existing provisions as par. (1) and added pars. (2) to (5).

1991—Subsec. (a). Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' and ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsecs. (d), (e). Pub. L. 102–83, § 4(a)(2)(A)(i), substituted ''Secretary'' for ''Veterans' Administration''.

1990—Subsec. (d). Pub. L. 101–508, § 8004(a)(1), designated par. (1) as entire subsec. (d) and struck out pars. (2) and (3) which read as follows:

''(2) The remarriage of the surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse of the veteran if the remarriage has been terminated by death or has been dissolved by a court with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by the surviving spouse or collusion.

''(3) If a surviving spouse ceases living with another person and holding himself or herself out openly to the public as that person's spouse, the bar to granting that person benefits as the surviving spouse of the veteran shall not apply.''

Subsec. (e). Pub. L. 101–508, § 8004(a)(2), designated par. (1) as entire subsec. (e) and struck out par. (2) which read as follows: ''The marriage of a child of a veteran shall not bar the recognition of such child as the child of the veteran for benefit purposes if the marriage has been terminated by death or has been dissolved by a court, with basic authority to render divorce decrees unless the Veterans' Administration determines that the divorce was secured through fraud by either party or collusion.''

1986—Subsec. (a). Pub. L. 99–576, § 701(2)(A), substituted ''person as the widow or widower'' for ''woman as the widow'', ''such person'' for ''she'', ''the veteran'' for ''him'', ''the veteran's'' for ''his'', and ''legal widow or widower'' for ''legal widow''.

Subsec. (b). Pub. L. 99–576, § 701(2)(B), substituted ''surviving spouse'' for ''widow''.

Subsec. (c). Pub. L. 99–576, § 701(2)(C), substituted ''person is or was the spouse'' for ''woman is or was the wife''.

Subsec. (d)(1). Pub. L. 99–576, § 701(2)(D), substituted ''surviving spouse of a veteran shall not bar the furnishing of benefits to such person as the surviving spouse'' for ''widow of a veteran shall not bar the furnishing of benefits to her as the widow''.

Subsec. (d)(2). Pub. L. 99–576, § 701(2)(E), substituted ''surviving spouse'' for ''widow'' wherever appearing, and ''such person'' for ''her''.

Subsec. (d)(3). Pub. L. 99–576, § 701(2)(F), substituted ''surviving spouse'' for ''widow'' wherever appearing, ''person'' for ''man'', ''himself or herself'' for ''herself'', ''that person's spouse'' for ''his wife'', and ''that person'' for ''her''.

1974—Subsec. (e). Pub. L. 93–527 designated existing provisions as par. (1) and added par. (2).

1970—Subsec. (d). Pub. L. 91–376 designated existing provisions as par. (1) and added pars. (2) and (3).

1967—Subsec. (a). Pub. L. 90–77 reduced cohabitation period from five years to one year for purposes of deeming a purported marriage valid and provided for cohabitation for any period of time if a child was born of the purported marriage or was born before the marriage.

1962—Subsecs. (d), (e). Pub. L. 87–674 added subsecs. (d) and (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title I, § 101(c), Dec. 16, 2003, 117 Stat. 2653, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 1311 of this title] shall take effect on January 1, 2004.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title I, § 101(c), Dec. 6, 2002, 116 Stat. 2821, provided that: ''The amendments made by this section [amending this section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Dec. 6, 2002].''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–117, title V, § 502(c), Nov. 30, 1999, 113 Stat. 1574, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 1311 of this title] shall take effect on the first day of the first month beginning after the month in which this Act is enacted [November 1999].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8004(b) of Pub. L. 101–508 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to claims filed after October 31, 1990, and shall not operate to reduce or terminate benefits to any individual whose benefits were predicated on section 103(d)(2), 103(d)(3), or 103(e)(2) before the effective date of those amendments.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–527 effective Jan. 1, 1975, see section 10 of Pub. L. 93–527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–376 effective Jan. 1, 1971, see section 9 of Pub. L. 91–376, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

RETROACTIVE BENEFITS PROHIBITED

Pub. L. 108–183, title I, § 101(d), Dec. 16, 2003, 117 Stat. 2653, provided that: ''No benefit may be paid to any per-

son by reason of the amendments made by subsections (a) and (b) [amending this section and section 1311 of this title] for any period before the effective date specified in subsection (c) [set out as an Effective Date of 2003 Amendment note above].''

APPLICATION FOR BENEFITS

Pub. L. 108–183, title I, § 101(e), Dec. 16, 2003, 117 Stat. 2653, provided that: ''In the case of an individual who but for having remarried would be eligible for benefits under title 38, United States Code, by reason of the amendment made by subsection (a) [amending this section] and whose remarriage was before the date of the enactment of this Act [Dec. 16, 2003] and after the individual had attained age 57, the individual shall be eligible for such benefits by reason of such amendment only if the individual submits an application for such benefits to the Secretary of Veterans Affairs not later than the end of the one-year period beginning on the date of the enactment of this Act.''

Pub. L. 107–330, title I, § 101(b), Dec. 6, 2002, 116 Stat. 2821, as amended by Pub. L. 108–183, title I, § 101(f), Dec. 16, 2003, 117 Stat. 2653, provided that: ''In the case of an individual who but for having remarried would be eligible for medical care under section 1781 of title 38, United States Code, and whose remarriage was before the date of the enactment of this Act [Dec. 6, 2002] and after the individual had attained age 55, the individual shall be eligible for such medical care by reason of the amendments made by subsection (a) [amending this section] only if an application for such medical care is received by the Secretary of Veterans Affairs before the end of the one-year period beginning on the date of the enactment of the Veterans Benefits Act of 2003 [Dec. 16, 2003].''

LIMITATION ON PAYMENTS

Pub. L. 106–117, title V, § 502(d), Nov. 30, 1999, 113 Stat. 1574, provided that: ''No payment may be made to a person by reason of paragraphs (2) and (3) of section 103(d) of title 38, United States Code, as added by subsection (a), for any period before the effective date specified in subsection (c) [set out as an Effective Date of 1999 Amendment note above].''

APPLICABILITY OF AMENDMENTS

Pub. L. 102–568, title I, § 103, Oct. 29, 1992, 106 Stat. 4322, provided that:

''(a) EXCEPTION.—The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) [Pub. L. 101–508, 104 Stat. 1388–343, amending this section] shall not apply to any case in which a legal proceeding to terminate an existing marital relationship was commenced before November 1, 1990, by an individual described in subsection (b) if that proceeding directly resulted in the termination of such marriage.

''(b) COVERED INDIVIDUALS.—An individual referred to in subsection (a) is an individual who, but for the marital relationship referred to in subsection (a), would be considered to be the surviving spouse of a veteran.''

Pub. L. 102–86, title V, § 502, Aug. 14, 1991, 105 Stat. 424, provided that: ''The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) [amending this section] shall not apply with respect to any individual who on October 31, 1990, was a surviving spouse or child within the meaning of title 38, United States Code, unless after that date that individual (1) marries, or (2) in the case of a surviving spouse, begins to live with another person while holding himself or herself out openly to the public as that person's spouse.''

REINSTATEMENT OF BENEFITS SUBSEQUENT TO TERMINATION OF RELATIONSHIP OR CONDUCT RESTRICTING PAYMENT OF BENEFITS; EFFECTIVE DATE OF AWARD

Section 5 of Pub. L. 91–376, effective January 1, 1971, provided that:

''(a) If a widow terminates a relationship or conduct which resulted in imposition of a prior restriction on payment of benefits, in the nature of inference or presumption of remarriage, or relating to open and notorious adulterous cohabitation or similar conduct, she shall not be denied any benefits by the Veterans' Administration, other than insurance, solely because of such prior relationship or conduct.

''(b) The effective date of an award of benefits resulting from enactment of subsection (a) of this section shall not be earlier than the date of receipt of application therefor, filed after termination of the particular relationship or conduct and after December 31, 1970.''

§ 104. Approval of educational institutions

(a) For the purpose of determining whether or not benefits are payable under this title (except chapter 35 of this title) for a child over the age of eighteen years and under the age of twenty-three years who is attending a school, college, academy, seminary, technical institute, university, or other educational institution, the Secretary may approve or disapprove such educational institutions.

(b) The Secretary may not approve an educational institution under this section unless such institution has agreed to report to the Secretary the termination of attendance of any child. If any educational institution fails to report any such termination promptly, the approval of the Secretary shall be withdrawn.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 91–24, § 1(c), June 11, 1969, 83 Stat. 33; Pub. L. 99–576, title VII, § 701(3), Oct. 28, 1986, 100 Stat. 3290; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (b). Pub. L. 99–576 substituted ''report to the Administrator'' for ''report to him''.

1969—Subsec. (a). Pub. L. 91–24 substituted ''the age of twenty-three years'' for ''the age of twenty-one years''.

§ 105. Line of duty and misconduct

(a) An injury or disease incurred during active military, naval, or air service will be deemed to have been incurred in line of duty and not the result of the veteran's own misconduct when the person on whose account benefits are claimed was, at the time the injury was suffered or disease contracted, in active military, naval, or air service, whether on active duty or on authorized leave, unless such injury or disease was a result of the person's own willful misconduct or abuse of alcohol or drugs. Venereal disease shall not be presumed to be due to willful misconduct if the person in service complies with the regulations of the appropriate service department requiring the person to report and receive treatment for such disease.

(b) The requirement for line of duty will not be met if it appears that at the time the injury was suffered or disease contracted the person on whose account benefits are claimed (1) was avoiding duty by deserting the service or by absenting himself or herself without leave materially interfering with the performance of military duties; (2) was confined under sentence of court-martial involving an unremitted dishonorable discharge; or (3) was confined under sentence of a civil court for a felony (as determined under the laws of the jurisdiction where the person was convicted by such court).

(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Secretary, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 99–576, title VII, § 701(4), Oct. 28, 1986, 100 Stat. 3290; Pub. L. 100–689, title I, § 109, Nov. 18, 1988, 102 Stat. 4170; Pub. L. 101–508, title VIII, § 8052(a)(1), Nov. 5, 1990, 104 Stat. 1388–351; Pub. L. 102–83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Subsec. (c). Pub. L. 102–83 substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1990—Subsec. (a). Pub. L. 101–508 substituted ''a result of the person's own willful misconduct or abuse of alcohol or drugs'' for ''the result of the person's own willful misconduct''.

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

1986—Subsec. (a). Pub. L. 99–576, § 701(4)(A), substituted ''result of the person's'' for ''result of his'' and ''requiring the person'' for ''requiring him''.

Subsec. (b)(1). Pub. L. 99–576, § 701(4)(B), substituted ''service or by absenting himself or herself'' for ''service, or by absenting himself''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8052(b) of Pub. L. 101–508 provided that: ''The amendments made by subsection (a) [amending this section and sections 310 and 331 [now 1110 and 1131] of this title] shall take effect with respect to claims filed after October 31, 1990.''

§ 106. Certain service deemed to be active service

(a)(1) Service as a member of the Women's Army Auxiliary Corps for ninety days or more by any woman who before October 1, 1943, was honorably discharged for disability incurred or aggravated in line of duty which rendered her physically unfit to perform further service in the Women's Army Auxiliary Corps or the Women's Army Corps shall be considered active duty for the purposes of all laws administered by the Secretary.

(2) Any person entitled to compensation or pension by reason of this subsection and to employees' compensation based upon the same service under subchapter I of chapter 81 of title 5 must elect which benefit she will receive.

(b) Any person—

(1) who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service; or

(2) who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of the person's local draft board and before rejection; or

(3) who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service; and

who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty, will, for the purposes of chapters 11, 13, 19, 21, 31, and 39 of this title, and for purposes of determining service-connection of a disability under chapter 17 of this title, be considered to have been on active duty and to have incurred such disability in the active military, naval, or air service.

(c) For the purposes of this title, an individual discharged or released from a period of active duty shall be deemed to have continued on active duty during the period of time immediately following the date of such discharge or release from such duty determined by the Secretary concerned to have been required for that individual to proceed to that individual's home by the most direct route, and in any event that individual shall be deemed to have continued on active duty until midnight of the date of such discharge or release.

(d)(1) For the purposes of this title, any individual—

(A) who, when authorized or required by competent authority, assumes an obligation to perform active duty for training or inactive duty training; and

(B) who is disabled or dies from an injury or covered disease incurred while proceeding directly to or returning directly from such active duty for training or inactive duty training, as the case may be;

shall be deemed to have been on active duty for training or inactive duty training, as the case may be, at the time such injury or covered disease was incurred.

(2) In determining whether or not such individual was so authorized or required to perform such duty, and whether or not such individual was disabled or died from injury or covered disease so incurred, the Secretary shall take into account the hour on which such individual began so to proceed or to return; the hour on which such individual was scheduled to arrive for, or on which such individual ceased to perform, such duty; the method of travel employed; the itinerary; the manner in which the travel was performed; and the immediate cause of disability or death.

(3) Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(4) For purposes of this subsection, the term ''covered disease'' means any of the following:

(A) Acute myocardial infarction.

(B) A cardiac arrest.

(C) A cerebrovascular accident.

(e) Each person who has incurred a disability as a result of an injury or disease described in subsection (b) shall be entitled to the same rights, privileges, and benefits under title 5 as a preference eligible described in section 2108(3)(C) of title 5.

(f) Service as a member of the Alaska Territorial Guard during World War II of any individual who was honorably discharged therefrom under section 8147 of the Department of Defense Appropriations Act, 2001, shall be considered active duty for purposes of all laws administered by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1110; Pub. L. 87–102, § 1, July 21, 1961, 75 Stat. 219; Pub. L. 88–616, Oct. 2, 1964, 78 Stat. 994; Pub. L. 89–311, § 5, Oct. 31, 1965, 79 Stat. 1156; Pub. L. 97–295, § 4(3),

Oct. 12, 1982, 96 Stat. 1305; Pub. L. 99–576, title VII, §701(5), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 102–83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 106–259, title VIII, §8147(a), Aug. 9, 2000, 114 Stat. 705; Pub. L. 106–419, title III, §301(b), Nov. 1, 2000, 114 Stat. 1852.)

REFERENCES IN TEXT

Section 8147 of the Department of Defense Appropriations Act, 2001, referred to in subsec. (f), is section 8147 of Pub. L. 106–259, which amended this section and enacted provisions set out as a note below.

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–419 designated first sentence as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), and inserted ''or covered disease'' after ''injury'' in subpar. (B) and in concluding provisions, designated second sentence as par. (2) and inserted ''or covered disease'' after ''injury'', designated third sentence as par. (3), and added par. (4).

Subsec. (f). Pub. L. 106–259 added subsec. (f).

1991—Subsec. (a)(1). Pub. L. 102–83, §4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (d). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in concluding provisions.

1986—Subsec. (b)(2). Pub. L. 99–576, §701(5)(A), substituted ''the person's'' for ''his''.

Subsec. (c). Pub. L. 99–576, §701(5)(B), substituted ''required for that individual'' for ''required for him'', ''proceed to that individual's home'' for ''proceed to his home'', and ''in any event that individual'' for ''in any event he''.

Subsec. (d). Pub. L. 99–576, §701(5)(C), struck out ''by him'' after ''injury incurred'' in cl. (2), and in closing provisions, substituted ''such individual was disabled'' for ''he was disabled'', ''on which such individual began'' for ''on which he began'', ''such individual was scheduled'' for ''he was scheduled'', ''such individual ceased'' for ''he ceased'', and ''the itinerary'' for ''his itinerary''.

1982—Subsec. (a)(2). Pub. L. 97–295, §4(3)(A), substituted ''subchapter I of chapter 81 of title 5'' for ''the Federal Employees' Compensation Act''.

Subsec. (e). Pub. L. 97–295, §4(3)(B), substituted ''title 5 as a preference eligible described in section 2108(3)(C) of title 5'' for ''the Act of June 27, 1944, (58 Stat. 387–391), as a person described in section 2(1) of such Act''.

1965—Subsec. (e). Pub. L. 89–311 added subsec. (e).

1964—Subsec. (d)(2). Pub. L. 88–616 struck out ''after December 31, 1956,'' after ''injury incurred''.

1961—Subsec. (c). Pub. L. 87–102 extended provisions for benefits based on limited periods immediately following discharge from active duty after December 31, 1956 to veterans discharged before such date.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87–102 provided that: ''No monetary benefits shall accrue by reason of the amendments made by this Act [amending this section] for any period prior to the date of enactment [July 21, 1961].''

SERVICE IN ALASKA TERRITORIAL GUARD

Pub. L. 106–259, title VIII, §8147(b), (c), Aug. 9, 2000, 114 Stat. 705, provided that:

''(b) DISCHARGE.—(1) The Secretary of Defense shall issue to each individual who served as a member of the Alaska Territorial Guard during World War II a discharge from such service under honorable conditions if the Secretary determines that the nature and duration of the service of the individual so warrants.

''(2) A discharge under paragraph (1) shall designate the date of discharge. The date of discharge shall be the date, as determined by the Secretary, of the termination of service of the individual concerned as described in that paragraph.

''(c) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits shall be paid to any individual for any period before the date of the enactment of this Act [Aug. 9, 2000] by reason of the enactment of this section [amending this section and enacting this note].''

WOMEN'S AIR FORCES SERVICE PILOTS

Pub. L. 95–202, title IV, §401, Nov. 23, 1977, 91 Stat. 1449, as amended by Pub. L. 96–466, title VIII, §801(m)(3), Oct. 17, 1980, 94 Stat. 2217; Pub. L. 98–94, title XII, §1263(a), Sept. 24, 1983, 97 Stat. 703; Pub. L. 102–83, §6(b), Aug. 6, 1991, 105 Stat. 407, provided that:

''(a)(1) Notwithstanding any other provision of law, the service of any person as a member of the Women's Air Forces Service Pilots (a group of Federal civilian employees attached to the United States Army Air Force during World War II), or the service of any person in any other similarly situated group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered, shall be considered active duty for the purposes of all laws administered by the Secretary of Veterans Affairs if the Secretary of Defense, pursuant to regulations which the Secretary shall prescribe—

''(A) after a full review of the historical records and all other available evidence pertaining to the service of any such group, determines, on the basis of judicial and other appropriate precedent, that the service of such group constituted active military service, and

''(B) in the case of any such group with respect to which such Secretary has made an affirmative determination that the service of such group constituted active military service, issues to each member of such group a discharge from such service under honorable conditions where the nature and duration of the service of such member so warrants.

Discharges issued pursuant to the provisions of the first sentence of this paragraph shall designate as the date of discharge that date, as determined by the Secretary of Defense, on which such service by the person concerned was terminated.

''(2) In making a determination under clause (A) of paragraph (1) of this subsection with respect to any group described in such paragraph, the Secretary of Defense may take into consideration the extent to which—

''(A) such group received military training and acquired a military capability or the service performed by such group was critical to the success of a military mission,

''(B) the members of such group were subject to military justice, discipline, and control,

''(C) the members of such group were permitted to resign,

''(D) the members of such group were susceptible to assignment for duty in a combat zone, and

''(E) the members of such group had reasonable expectations that their service would be considered to be active military service.

''(b)(1) No benefits shall be paid to any person for any period prior to the date of enactment of this title [Nov. 23, 1977] as a result of the enactment of subsection (a) of this section.

''(2) The provisions of section 106(a)(2) of title 38, United States Code, relating to election of benefits, shall be applicable to persons made eligible for benefits, under laws administered by the Secretary of Veterans Affairs, as a result of implementation of the provisions of subsection (a) of this section.

''(c) Under regulations prescribed by the Secretary of Defense, any person who is issued a discharge under honorable conditions pursuant to the implementation of subsection (a) of this section may be awarded any campaign or service medal warranted by such person's service.''

[Section 1263(b) of Pub. L. 98–94 provided that: ''The amendment made by subsection (a) [enacting subsec.

(c) set out above] shall apply to all persons issued discharges under honorable conditions pursuant to section 401 of the GI Bill Improvements Act of 1977 [Pub. L. 95–202, set out above] whether such discharges are awarded before, on, or after the date of the enactment of this Act [Sept. 24, 1983].'']

[Amendment of subsec. (a)(1)(B), set out above, by Pub. L. 96–466, effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as an Effective Date of 1980 Amendment note under section 3452 of this title.]

§ 107. Certain service deemed not to be active service

(a) Service before July 1, 1946, in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, shall not be deemed to have been active military, naval, or air service for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the Armed Forces, except benefits under—

(1) contracts of National Service Life Insurance entered into before February 18, 1946;

(2) chapter 10 of title 37; and

(3) chapters 11, 13 (except section 1312(a)), 23, and 24 (to the extent provided for in section 2402(8)) of this title.

Except as provided in subsection (c) or (d), payments under such chapters shall be made at a rate of $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of $0.50 for each dollar. Any payments made before February 18, 1946, to any such member under such laws conferring rights, benefits, or privileges shall not be deemed to have been invalid by reason of the circumstance that such member's service was not service in the Armed Forces or any component thereof within the meaning of any such law.

(b) Service in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945 shall not be deemed to have been active military, naval, or air service for the purposes of any of the laws administered by the Secretary except—

(1) with respect to contracts of National Service Life Insurance entered into (A) before May 27, 1946, (B) under section 620 or 621 of the National Service Life Insurance Act of 1940, or (C) under section 1922 of this title; and

(2) chapters 11, 13 (except section 1312(a)), 23, and 24 (to the extent provided for in section 2402(8)) of this title.

Except as provided in subsection (c) or (d), payments under such chapters shall be made at a rate of $0.50 for each dollar authorized, and where annual income is a factor in entitlement to benefits, the dollar limitations in the law specifying such annual income shall apply at a rate of $0.50 for each dollar.

(c) In the case of benefits under subchapters II and IV of chapter 11 of this title and subchapter II of chapter 13 (except section 1312(a)) of this title paid by reason of service described in subsection (a) or (b) to an individual residing in the United States who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States, the second sentence of the applicable subsection shall not apply.

(d)(1) With respect to benefits under chapter 23 of this title, in the case of an individual described in paragraph (2), the second sentence of subsection (a) or (b), as otherwise applicable, shall not apply.

(2) Paragraph (1) applies to any individual whose service is described in subsection (a) and who dies after November 1, 2000, or whose service is described in subsection (b) and who dies after the date of the enactment of the Veterans Benefits Act of 2003, if the individual, on the individual's date of death—

(A) is a citizen of, or an alien lawfully admitted for permanent residence in, the United States;

(B) is residing in the United States; and

(C) either—

(i) is receiving compensation under chapter 11 of this title; or

(ii) if the individual's service had been deemed to be active military, naval, or air service, would have been paid pension under section 1521 of this title without denial or discontinuance by reason of section 1522 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1111; Pub. L. 87–268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 89–641, § 2(a), Oct. 11, 1966, 80 Stat. 885; Pub. L. 97–295, § 4(4), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 99–576, title VII, § 701(6), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 102–83, §§ 4(a)(1), 5(c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 103–446, title V, § 507(a), Nov. 2, 1994, 108 Stat. 4664; Pub. L. 106–377, § 1(a)(1) [title V, § 501(a)(1)], Oct. 27, 2000, 114 Stat. 1441, 1441A–57; Pub. L. 106–419, title III, §§ 331(b), 332(a), Nov. 1, 2000, 114 Stat. 1856; Pub. L. 107–14, § 8(a)(1), June 5, 2001, 115 Stat. 34; Pub. L. 107–330, title III, § 308(g)(2), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 108–183, title II, §§ 211(a), 212(a), Dec. 16, 2003, 117 Stat. 2657.)

References in Text

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in subsec. (b), is section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

Sections 620 and 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (b)(1), are sections 620 and 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted sections 820 and 821 of former Title 38, Pensions, Bonuses, and Veterans' Relief, which were repealed and the provisions thereof reenacted as sections 722(a) and 723 [now 1922(a) and 1923] of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

The date of the enactment of the Veterans Benefits Act of 2003, referred to in subsec. (d)(2), is the date of enactment of Pub. L. 108–183, which was approved Dec. 16, 2003.

Amendments

2003—Subsec. (b). Pub. L. 108–183, § 212(a)(2), inserted ''or (d)'' after ''subsection (c)'' in second sentence.

Pub. L. 108–183, §211(a)(1), substituted ''Except as provided in subsection (c), payments'' for ''Payments'' in second sentence.

Subsec. (b)(2). Pub. L. 108–183, §212(a)(1), substituted a comma for ''and'' after ''chapters 11'' and inserted '', 23, and 24 (to the extent provided for in section 2402(8))'' after ''(except section 1312(a))''.

Subsec. (c). Pub. L. 108–183, §211(a)(2), substituted ''in subsection (a) or (b)'' for ''in subsection (a)'' and ''of the applicable subsection'' for ''of subsection (a)'' and inserted ''and subchapter II of chapter 13 (except section 1312(a)) of this title'' after ''chapter 11 of this title''.

Subsec. (d)(1). Pub. L. 108–183, §212(a)(3), inserted ''or (b), as otherwise applicable,'' after ''subsection (a)''.

Subsec. (d)(2). Pub. L. 108–183, §212(a)(4), inserted ''or whose service is described in subsection (b) and who dies after the date of the enactment of the Veterans Benefits Act of 2003,'' after ''November 1, 2000,'' in introductory provisions.

2002—Subsec. (d)(2). Pub. L. 107–330 substituted ''November 1, 2000,'' for ''the date of the enactment of this subsection'' in introductory provisions.

2001—Subsec. (a). Pub. L. 107–14, §8(a)(1)(A), inserted ''or (d)'' after ''subsection (c)'' in concluding provisions.

Subsecs. (c), (d). Pub. L. 107–14, §8(a)(1)(B), (C), redesignated subsec. (c) relating to the inapplicability of the second sentence of subsec. (a) to an individual described in paragraph (2) as (d) and substituted ''With respect to benefits under chapter 23 of this title, in'' for ''In'' in par. (1).

2000—Subsec. (a). Pub. L. 106–419, §332(a)(1), which directed substitution of ''Subject to subsection (c), payments'' for ''Payments'', could not be executed because ''Payments'' did not appear subsequent to the amendment by Pub. L. 106–377, §1(a)(1) [title V, §501(a)(1)(A)]. See below.

Pub. L. 106–377, §1(a)(1) [title V, §501(a)(1)(A)], substituted ''Except as provided in subsection (c), payments'' for ''Payments'' in concluding provisions.

Subsec. (a)(3). Pub. L. 106–419, §331(b), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''chapters 11, 13 (except section 1312(a)), and 23 of this title.''

Subsec. (c). Pub. L. 106–419, §332(a)(2), added subsec. (c) relating to the inapplicability of the second sentence of subsec. (a) to an individual described in paragraph (2).

Pub. L. 106–377, §1(a)(1) [title V, §501(a)(1)(B)], added subsec. (c) relating to the inapplicability of the second sentence of subsec. (a) to cases of benefits under subchapters II and IV of chapter 11 of this title paid to United States citizens or to permanent resident aliens.

1994—Subsecs. (a), (b). Pub. L. 103–446 substituted ''rate of'' for ''rate in pesos as is equivalent to'' and for ''rate in Philippine pesos as is equivalent to'' in second sentence.

1991—Subsec. (a)(3). Pub. L. 102–83, §5(c)(1), substituted ''1312(a)'' for ''412(a)''.

Subsec. (b). Pub. L. 102–83, §5(c)(1), substituted ''1922'' for ''722'' in par. (1)(C) and ''1312(a)'' for ''412(a)'' in par. (2).

Pub. L. 102–83, §4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Subsec. (a). Pub. L. 99–576 substituted ''that such member's'' for ''that his'' in last sentence.

1982—Subsec. (a)(2). Pub. L. 97–295 substituted ''chapter 10 of title 37'' for ''the Missing Persons Act''.

1966—Pub. L. 89–641 increased the specified dollar/peso rate for payments from one peso for each dollar otherwise authorized to a rate in Philippine pesos equivalent to $0.50 for each dollar.

1961—Pub. L. 87–268 substituted ''section 412(a)'' for ''sections 412'' wherever appearing.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title II, §211(b), Dec. 16, 2003, 117 Stat. 2657, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to benefits paid for months beginning after the date of the enactment of this Act [Dec. 16, 2003].''

Pub. L. 108–183, title II, §212(c), Dec. 16, 2003, 117 Stat. 2658, provided that: ''The amendments made by this section [amending this section and section 2402 of this title] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–14, §8(a)(1), June 5, 2001, 115 Stat. 34, provided that the amendment made by section 8(a)(1) is effective Nov. 1, 2000.

EFFECTIVE DATE OF 2000 AMENDMENTS

Pub. L. 106–419, title III, §331(c), Nov. 1, 2000, 114 Stat. 1856, provided that: ''The amendments made by this section [amending this section and section 2402 of this title] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Nov. 1, 2000].''

Pub. L. 106–419, title III, §332(b), Nov. 1, 2000, 114 Stat. 1856, provided that: ''No benefits shall accrue to any person for any period before the date of the enactment of this Act [Nov. 1, 2000] by reason of the amendments made by subsection (a) [amending this section].''

Pub. L. 106–377, §1(a)(1) [title V, §501(a)(2)], Oct. 27, 2000, 114 Stat. 1441, 1441A–57, provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 27, 2000] and shall apply to benefits paid for months beginning on or after that date.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 507(c) of Pub. L. 103–446 provided that: ''The amendments made by this section [amending this section and sections 3532 and 3565 of this title] shall apply with respect to payments made after December 31, 1994.''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2(b) of Pub. L. 89–641 provided that: ''The amendments made by subsection (a) of this section [amending this section] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [Oct. 11, 1966].''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

REFUND OF ERRONEOUSLY DEDUCTED NSLI PREMIUM TO PHILIPPINE VETERANS ON PROPER APPLICATION

Section 1 of Pub. L. 89–641 provided for refund of erroneously deducted insurance premiums to Philippine armed forces members in service of the United States Armed Forces, such refund to be made upon receipt of an application within two years after Oct. 11, 1966. In event of death of such member, refund was to be made only to widow or widower, children or parents of such member, in that order, with no refunds to heirs or legal representatives.

§108. Seven-year absence presumption of death

(a) No State law providing for presumption of death shall be applicable to claims for benefits under laws administered by the Secretary.

(b) If evidence satisfactory to the Secretary is submitted establishing the continued and unexplained absence of any individual from that individual's home and family for seven or more years, and establishing that after diligent search no evidence of that individual's existence after the date of disappearance has been found or received, the death of such individual as of

the date of the expiration of such period shall be considered as sufficiently proved.

(c) Except in a suit brought pursuant to section 1984 of this title, the finding of death made by the Secretary shall be final and conclusive.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1112; Pub. L. 99–576, title VII, § 701(7), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1984'' for ''784''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (b). Pub. L. 99–576 substituted ''that individual's'' for ''his'' in two places.

§ 109. Benefits for discharged members of allied forces

(a)(1) In consideration of reciprocal services extended to the United States, the Secretary, upon request of the proper officials of the government of any nation allied or associated with the United States in World War I (except any nation which was an enemy of the United States during World War II), or in World War II, may furnish to discharged members of the armed forces of such government, under agreements requiring reimbursement in cash of expenses so incurred, at such rates and under such regulations as the Secretary may prescribe, medical, surgical, and dental treatment, hospital care, transportation and traveling expenses, prosthetic appliances, education, training, or similar benefits authorized by the laws of such nation for its veterans, and services required in extending such benefits. Hospitalization in a Department facility shall not be afforded under this section, except in emergencies, unless there are available beds surplus to the needs of veterans of this country. The Secretary may also pay the court costs and other expenses incident to the proceedings taken for the commitment of such discharged members who are mentally incompetent to institutions for the care or treatment of the insane.

(2) The Secretary, in carrying out the provisions of this subsection, may contract for necessary services in private, State, and other Government hospitals.

(3) All amounts received by the Department as reimbursement for such services shall be credited to the current appropriation of the Department from which expenditures were made under this subsection.

(b) Persons who served in the active service in the armed forces of any government allied with the United States in World War II and who at time of entrance into such active service were citizens of the United States shall, by virtue of such service, and if otherwise qualified, be entitled to the benefits of chapters 31 and 37 of this title in the same manner and to the same extent as veterans of World War II are entitled. No such benefit shall be extended to any person who is not a resident of the United States at the time of filing claim, or to any person who has applied for and received the same or any similar benefit from the government in whose armed forces such person served.

(c)(1) Any person who served during World War I or World War II as a member of any armed force of the Government of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

(2) In order to assist the Secretary in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1112; Pub. L. 94–491, Oct. 14, 1976, 90 Stat. 2363; Pub. L. 99–576, title VII, § 701(8), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Subsec. (a)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (a)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (a)(3). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (c)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (b). Pub. L. 99–576 substituted ''such person'' for ''he''.

1976—Subsec. (c). Pub. L. 94–491 added subsec. (c).

§ 110. Preservation of disability ratings

A rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Secretary, and which has been continuously in force for twenty or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud. A disability which has been continuously rated at or above evaluation for twenty or more years for compensation purposes under laws administered by the Secretary shall not thereafter be rated at less than such evaluation, except

upon a showing that such rating was based on fraud. The mentioned period shall be computed from the date determined by the Secretary as the date on which the status commenced for rating purposes.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 87–825, §6, Oct. 15, 1962, 76 Stat. 950; Pub. L. 88–445, §1(a), (b), Aug. 19, 1964, 78 Stat. 464; Pub. L. 91–32, June 23, 1969, 83 Stat. 38; Pub. L. 102–83, §4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in two places.

1969—Pub. L. 91–32 substituted ''evaluation'' for ''percentage'' wherever appearing.

1964—Pub. L. 88–445 substituted ''Preservation of disability ratings'' for ''Preservation of total disability ratings'' in section catchline, and inserted sentence directing that a disability which has been continuously rated at or above any percentage for twenty or more years for compensation purposes shall not thereafter be rated at less than such percentage, except upon a showing that such rating was based on fraud.

1962—Pub. L. 87–825 provided for computation of the period from the date the Administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 1 of Pub. L. 91–32 provided that the amendment made by that section is effective Aug. 19, 1964.

EFFECTIVE DATE OF 1962 AMENDMENT

Section 7 of Pub. L. 87–825 provided that: ''This Act [see Tables for classification] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [Oct. 15, 1962], but no payments shall be made by reason of this Act for any period before such effective date. Payments for any period before such effective date shall be made under prior laws and regulations. The provisions of this Act with respect to reductions and discontinuances shall be applicable only where the event requiring such reduction or discontinuance occurs on or after such effective date. If such event occurred before such effective date, action shall be taken pursuant to the prior laws and regulations.''

§111. Payments or allowances for beneficiary travel

(a) Under regulations prescribed by the President pursuant to the provisions of this section, the Secretary may pay the actual necessary expense of travel (including lodging and subsistence), or in lieu thereof an allowance based upon mileage traveled, of any person to or from a Department facility or other place in connection with vocational rehabilitation, counseling required by the Secretary pursuant to chapter 34 or 35 of this title, or for the purpose of examination, treatment, or care. In addition to the mileage allowance authorized by this section, there may be allowed reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls.

(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Secretary exercises the authority under this section to make any payments, the Secretary shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

(B) A veteran with a service-connected disability rated at 30 percent or more.

(C) A veteran receiving pension under section 1521 of this title.

(D) A veteran (i) whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title, or (ii) who is determined, under regulations prescribed by the Secretary, to be unable to defray the expenses of the travel for which payment under this section is claimed.

(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Department facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

(F) A veteran whose travel to a Department facility is incident to a scheduled compensation and pension examination.

(2) The Secretary may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Secretary shall prescribe.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the Secretary shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Secretary before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Secretary to use that mode of travel would have been hazardous to the person's life or health.

(B) In the case of travel by a person to or from a Department facility by special mode of travel, the Secretary may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Secretary determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

(c)(1) Except as otherwise provided in this subsection, the Secretary, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

(2) In the case of a person who is determined by the Secretary to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Secretary pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Department facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

(4) The Secretary may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Secretary shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph.

(5) Whenever the Secretary increases or decreases the rates of allowances or reimbursement to be paid under this section, the Secretary shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.

(d) Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(1) The mileage allowance authorized by subsection (a) of this section.

(2) Actual local travel expenses.

(3) The expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

(e) When any person entitled to mileage under this section requires an attendant (other than an employee of the Department) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

(f) The Secretary may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Department facility.

(g)(1) In carrying out the purposes of this section, the Secretary, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Department facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Secretary shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, pursuant to regulations which the Secretary shall prescribe, to be unable to defray the expenses of such travel (except with respect to a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 1521 of this title, or a person whose annual income, determined in accordance with section 1503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 1521 of this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

(3) In conducting investigations and determining rates under this section, the Secretary shall review and analyze, among other factors, the following factors:

(A)(i) Depreciation of original vehicle costs;

(ii) gasoline and oil costs;

(iii) maintenance, accessories, parts, and tire costs;

(iv) insurance costs; and

(v) State and Federal taxes.

(B) The availability of and time required for public transportation.

(C) The per diem rates, mileage allowances, and expenses of travel authorized under sections 5702 and 5704 of title 5 for employees of the United States.

(4) Before determining rates or adjusting amounts under this section and not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates and amounts the Secretary proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

(h) The Secretary, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or

individuals who are volunteering their services to the Department, would take responsibility for the transportation, without reimbursement from the Department, to Department facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Department under chapter 17 or other provisions of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1113; Pub. L. 86–590, July 5, 1960, 74 Stat. 329; Pub. L. 89–358, §4(g), Mar. 3, 1966, 80 Stat. 24; Pub. L. 89–455, June 18, 1966, 80 Stat. 208; Pub. L. 94–581, title I, §101, Oct. 21, 1976, 90 Stat. 2842; Pub. L. 96–151, title II, §201(a), Dec. 20, 1979, 93 Stat. 1093; Pub. L. 97–295, §4(5), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 100–322, title I, §108(a), (b)(1), (c)–(e)(1), May 20, 1988, 102 Stat. 496–498; Pub. L. 102–83, §§4(a)(3), (4), (6), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–446, title XII, §1201(e)(1), Nov. 2, 1994, 108 Stat. 4685.)

AMENDMENTS

1994—Subsec. (b)(3)(B). Pub. L. 103–446 substituted ''a Department facility'' for ''the Department facility''.

1991—Subsec. (a). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(1)(C), (D). Pub. L. 102–83, §5(c)(1), substituted ''1521'' for ''521'' in subpar. (C) and ''1503'' for ''503'' and ''1521'' for ''521'' in subpar. (D).

Subsec. (b)(1)(E), (F). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(3)(B). Pub. L. 102–83, §4(a)(6), substituted ''Department facility'' for ''Veteran's Administration facility''.

Subsec. (c)(1), (2). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(3). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c)(4), (5). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (e). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (f). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (g)(1). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for first and third references to ''Administrator''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (g)(2)(A). Pub. L. 102–83, §5(c)(1), substituted ''1521'' for ''521'' in two places and ''1503'' for ''503''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (g)(3), (4). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (h). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for first reference to ''Administrator''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1988—Pub. L. 100–322, §108(e)(1), substituted ''Payments or allowances for beneficiary travel'' for ''Travel expenses'' in section catchline.

Subsecs. (b), (c). Pub. L. 100–322, §108(a)(2), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 100–322, §108(a)(1), (d), redesignated subsec. (b) as (d), and in par. (1) substituted ''The mileage'' for ''the mileage'' and ''of this section.'' for ''hereof;'', in par. (2) substituted ''Actual'' for ''actual'' and a period for a semicolon, and in par. (3) substituted ''The expense'' for ''the expense''. Former subsec. (d) redesignated (f).

Subsecs. (e), (f). Pub. L. 100–322, §108(a)(1), redesignated subsecs. (c) and (d) as (e) and (f), respectively. Former subsec. (e) redesignated (g).

Subsec. (g). Pub. L. 100–322, §108(a)(1), (c), redesignated subsec. (e) as (g), and in par. (4) substituted ''Before determining rates or adjusting amounts'' for ''Before determining rates'' and ''containing the rates and amounts'' for ''containing the rates''.

Subsec. (h). Pub. L. 100–322, §108(b)(1), added subsec. (h).

1982—Subsec. (e)(4). Pub. L. 97–295 substituted ''and'' for '', and not later than sixty days after the effective date of this subsection, and thereafter'' after ''under this section''.

1979—Subsec. (e)(2)(A). Pub. L. 96–151 substituted provisions respecting determinations pursuant to regulations prescribed by the Administrator, subject to applicable exceptions, for provisions respecting determinations based on annual declarations and certifications by persons claiming reimbursements, subject to applicable exceptions.

1976—Subsec. (a). Pub. L. 94–581, §101(1), inserted ''pursuant to the provisions of this section'' after ''President''.

Subsec. (e). Pub. L. 94–581, §101(2), added subsec. (e).

1966—Subsec. (a). Pub. L. 89–358 substituted reference to chapter 34 for 33.

Subsec. (b). Pub. L. 89–455 authorized the prepayment of actual local travel expenses and the expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

1960—Subsec. (a). Pub. L. 86–590 allowed reimbursement for actual cost of ferry fares, and bridge, road, and tunnel tolls.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 108(g) of Pub. L. 100–322 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect with respect to travel performed after June 30, 1988.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 206 of title II of Pub. L. 96–151 provided that: ''Except as otherwise provided in section 205(b), the amendments made by this title [amending this section and sections 601, 614, and 628 [now 1701, 1714, and 1728] of this title] shall take effect on January 1, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Section 211 of Pub. L. 94–581 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Tables for classification] to title 38, United States Code, shall take effect on October 1, 1976, or on the date of enactment [Oct. 21, 1976], whichever is later.''

TRANSITION PROVISION FOR 1988 AMENDMENT

Section 108(f) of Pub. L. 100–322 provided that: ''In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act [May 20, 1988].''

INTERIM GUIDELINES FOR BENEFICIARY TRAVEL BETWEEN JANUARY 1, 1984, AND THE PROMULGATION OF REGULATIONS BY ADMINISTRATOR OF VETERANS' AFFAIRS

Pub. L. 98–160, title I, §108, Nov. 21, 1983, 97 Stat. 999, provided that promulgation of guidelines pending issu-

ance of regulations covering the travel of beneficiaries during an interim period beginning Jan. 1, 1984, and directed that a report be made to Congress not later than Apr. 1, 1984, regarding travel payments.

AVAILABILITY OF FUNDS FOR TRAVEL OF ELIGIBLE VETERANS, DEPENDENTS, OR SURVIVORS

Pub. L. 96–330, title IV, § 406, Aug. 26, 1980, 94 Stat. 1052, provided that: ''No provision of law enacted after the date of the enactment of this Act [Aug. 26, 1980] which imposes any restriction or limitation on the availability of funds for the travel and transportation of officers and employees of the executive branch of the Government and their dependents, or on the transportation of things of such officers and employees and their dependents, shall be applicable to the travel of eligible veterans, dependents, or survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, unless such provision is expressly made applicable to the travel of such veterans, dependents, or survivors.''

EXECUTIVE ORDER NO. 10810

Ex. Ord. No. 10810, Apr. 22, 1959, 24 F.R. 3179, as amended by Ex. Ord. No. 10881, July 6, 1960, 25 F.R. 6414, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479.

EXECUTIVE ORDER NO. 11142

Ex. Ord. No. 11142, Feb. 12, 1964, 29 F.R. 2479, which prescribed regulations governing allowances, was superseded by Ex. Ord. No. 11302, Sept. 6, 1966, 31 F.R. 11741, set out below.

EX. ORD. NO. 11302. REGULATIONS GOVERNING ALLOWANCES

Ex. Ord. No. 11302, Sept. 6, 1966, 31 F.R. 11741, as amended Ex. Ord. No. 11429, Sept. 9, 1968, 33 F.R. 12817; Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, provided:

By virtue of the authority vested in me by Section 111 of Title 38 of the United States Code, as amended by the Act of June 18, 1966 (Public Law 89–455), it is hereby ordered as follows:

SECTION 1. The Administrator of Veterans' Affairs may authorize or approve the payment of the actual necessary expenses of travel, including lodging and subsistence, of any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. The Administrator may authorize or approve such payment to the claimant or beneficiary, or, in his discretion, to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 2. The Administrator of Veterans' Affairs may authorize or approve in lieu of actual necessary expenses of travel, including lodging and subsistence, payment of an allowance, in such amount per mile as the Administrator shall from time to time fix pursuant to 38 U.S.C. 111 as affected by this order, to any claimant or beneficiary of the Veterans' Administration traveling to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or counseling, or for the purpose of examination, treatment, or care. In addition to such mileage allowance, the Administrator may allow reimbursement for the actual cost of ferry fares, and bridge, road, and tunnel tolls. In his discretion, the Administrator may authorize or approve such payment and such reimbursement to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

SEC. 3. Whenever a claimant or beneficiary requires an attendant other than an employee of the Veterans' Administration for the performance of travel specified in Section 1 and 2 hereof, the travel expenses of such attendant may be allowed in the same manner and to the same extent that travel expenses are allowed to such claimant or beneficiary.

SEC. 4. Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

a. The mileage allowance and fare and tolls authorized by Section 2 hereof.

b. Actual local travel expenses.

c. The expense of hiring an automobile or ambulance, or the fee authorized for services of a non-employee attendant.

SEC. 5. The Administrator of Veterans' Affairs may prescribe such rules and regulations not inconsistent herewith as may be necessary to effectuate the provisions of this order.

SEC. 6. Executive Order No. 11142 of February 12, 1964, is hereby superseded.

§ 112. Presidential memorial certificate program

(a) At the request of the President the Secretary may conduct a program for honoring the memory of deceased veterans, discharged under honorable conditions, by preparing and sending to eligible recipients a certificate bearing the signature of the President and expressing the country's grateful recognition of the veteran's service in the Armed Forces. The award of a certificate to one eligible recipient will not preclude authorization of another certificate if a request is received from some other eligible recipient.

(b) For the purpose of this section an ''eligible recipient'' means the next of kin, a relative or friend upon request, or an authorized service representative acting on behalf of such relative or friend.

(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.

(Added Pub. L. 89–88, § 1(a), July 24, 1965, 79 Stat. 264; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 107–330, title II, § 201(a), Dec. 6, 2002, 116 Stat. 2823.)

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–330 added subsec. (c).

1991—Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title II, § 201(d), Dec. 6, 2002, 116 Stat. 2823, provided that: ''The amendments made by this section [amending this section and sections 2301 and 2306 of this title] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Dec. 6, 2002].''

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mort-

gage-protection life insurance for certain veterans with service-connected disabilities.

(2) Benefits under section 2307 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected disabilities.

(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected disabilities.

(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.

(b) The following accounts of the Department shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) The following life insurance accounts:

(A) The National Service Life Insurance Fund authorized by section 1920 of this title.

(B) The Service-Disabled Veterans Insurance Fund authorized by section 1922 of this title.

(C) The Veterans Special Life Insurance Fund authorized by section 1923 of this title.

(D) The Veterans Reopened Insurance Fund authorized by section 1925 of this title.

(E) The United States Government Life Insurance Fund authorized by section 1955 of this title.

(F) The Veterans Insurance and Indemnity appropriation authorized by section 1919 of this title.

(2) The following revolving fund accounts:

(A) The Department of Veterans Affairs Special Therapeutic and Rehabilitation Activities Fund established by section 1718(c) of this title.

(B) The Veterans' Canteen Service revolving fund authorized by section 7804 of this title.

(c)(1) A benefit under section 2301, 2302, 2303, 2306, or 2308 of this title that is subject to reduction under a sequestration order or sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect on the date of the death of the veteran concerned.

(2) A benefit paid to, or on behalf of, an eligible veteran for pursuit of a program of education or training under chapter 30, 31, 34, 35, or 36 of this title that is subject to a sequestration order or a sequestration law shall be paid in accordance with the rates determined under the sequestration order or law (if any) in effect during the period of education or training for which the benefit is paid.

(3) In implementation of a sequestration order or law with respect to each account from which a benefit described in paragraph (1) or (2) of this subsection is paid (including the making of determinations of the amounts by which such benefits are to be reduced), the total of the amounts (as estimated by the Secretary after consultation with the Director of the Congressional Budget Office) by which payments of such benefit will be reduced by reason of such paragraph after the last day of the period during which such order or law is in effect shall be deemed to be additional reductions in the payments of such benefit made, and in new budget authority for such payments, during such period.

(d) In computing the amount of new budget authority by which a budget account of the Department is to be reduced for a fiscal year under a report of the Director of the Office of Management and Budget, or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined shall be established without regard to any amount of new budget authority in such account (determined under section 251(a)(6)[1] of such Act) for any of the programs listed in subsection (a) of this section.

(e) This section applies without regard to any other provision of law (whether enacted before, on, or after the date of the enactment of this section) unless such Act expressly provides that it is enacted as a limitation to this section.

(f) For the purposes of this section:

(1) The term ''sequestration'' means a reduction in spending authority and loan guarantee commitments generally throughout the Government under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law.

(2) The term ''sequestration law'' means a law enacted with respect to a sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other law (under the procedures specified in that Act or otherwise).

(3) The term ''sequestration order'' means an order of the President issued under part C of such Act.

(Added Pub. L. 99–576, title VI, §601(a)(1), Oct. 28, 1986, 100 Stat. 3287; amended Pub. L. 100–198, §12(a), Dec. 21, 1987, 101 Stat. 1325; Pub. L. 100–322, title IV, §411(b), (c), May 20, 1988, 102 Stat. 547; Pub. L. 102–40, title IV, §402(d)(1), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, §§4(a)(2)(B)(i), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

REFERENCES IN TEXT

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsecs. (a), (b), (d), and (f), is title II of Pub. L. 99–177, Dec. 12, 1985, 99 Stat. 1038, as amended. Part C of the Act is classified generally to subchapter I (§900 et seq.) of chapter 20 of Title 2, The Congress. Section 251 of the Act is classified to section 901 of Title 2, and was amended generally by Pub. L. 101–508, title XIII, §13101(a), Nov. 5, 1990, 104 Stat. 1388–577. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

The date of the enactment of this section, referred to in subsec. (e), is the date of enactment of Pub. L. 99–576, which was approved Oct. 28, 1986.

[1] See References in Text note below.

AMENDMENTS

1991—Subsec. (a)(2). Pub. L. 102–83, § 5(c)(1), substituted ''2307'' for ''907''.

Subsec. (b). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

Subsec. (b)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1920'' for ''720'' in subpar. (A), ''1922'' for ''722'' in subpar. (B), ''1923'' for ''723'' in subpar. (C), ''1925'' for ''725'' in subpar. (D), ''1955'' for ''755'' in subpar. (E), and ''1919'' for ''719'' in subpar. (F).

Subsec. (b)(2)(A). Pub. L. 102–83, § 5(c)(1), substituted ''1718(c)'' for ''618(c)''.

Pub. L. 102–83, § 4(a)(2)(B)(i), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (b)(2)(B). Pub. L. 102–40 substituted ''7804'' for ''4204''.

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted ''2301, 2302, 2303, 2306, or 2308'' for ''901, 902, 903, 906, or 908''.

Subsec. (c)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (d). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1988—Subsec. (a)(4), (5). Pub. L. 100–322, § 411(b), struck out ''(but only with respect to fiscal year 1987)'' before period at end.

Subsec. (d). Pub. L. 100–322, § 411(c), substituted ''a report of the Director of the Office of Management and Budget'' for ''a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office''.

1987—Subsec. (a)(6). Pub. L. 100–198, § 12(a)(1), added par. (6).

Subsec. (c)(2). Pub. L. 100–198, § 12(a)(3), substituted ''31, 34, 35, or 36'' for ''34, or 36''.

Subsecs. (e) to (g). Pub. L. 100–198, § 12(a)(2), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: ''If a final order issued by the President pursuant to a law providing for the cancellation of loan guarantee commitments imposes a limitation on the total amount of loans that may be guaranteed under chapter 37 of this title in any fiscal year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a monthly report (not later than the 10th day of each month during the remainder of such fiscal year following the issuance of such final order) providing the following information:

''(1) The total amount of the loans for which commitments of guarantees were made under such chapter during the preceding month.

''(2) The total amount of the loans for which commitments were made during the fiscal year through the end of such preceding month.

''(3) The Administrator's estimates as to the total amounts of the loans for which commitments would, in the absence of any limits on such commitments or guarantees, be made during (A) the month in which the report is required to be submitted, and (B) the succeeding months of the fiscal year.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 12(b) of Pub. L. 100–198 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on November 19, 1987.''

EFFECTIVE DATE

Section 601(b) of Pub. L. 99–576 provided that: ''Section 113 of title 38, United States Code (as added by subsection (a)), shall apply with respect to a sequestration order issued, or a sequestration law enacted, for a fiscal year after fiscal year 1986.''

RESTORATION OF CERTAIN REVOLVING FUNDS

Section 411(a) of Pub. L. 100–322 provided that:

''(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99–576) [set out as a note above], section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985.

''(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act [May 20, 1988], the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph.''

§ 114. Multiyear procurement

(a) The Secretary may enter into a multiyear contract for the procurement of supplies or services if the Secretary makes each of the following determinations:

(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

(A) reducing costs;

(B) achieving economies in contract administration or in any other Department activities;

(C) increasing quality of performance by or service from the contractors; or

(D) encouraging effective competition.

(3) During the proposed contract period—

(A) there will be a continuing or recurring need for the supplies or services being procured;

(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

(C) the specifications for the supplies or services are expected to be reasonably stable.

(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is con-

tingent on the availability of sufficient appropriations (as determined by the Secretary pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Secretary determines that, in light of other funding needs involved in the operation of Department programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Secretary shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

(c) Nothing in this section shall be construed so as to restrict the Secretary's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

(d) The Secretary shall prescribe regulations for the implementation of this section.

(e) For the purposes of this section:

(1) The term ''appropriations'' has the meaning given that term in section 1511 of title 31.

(2) The term ''multiyear contract'' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(3) The term ''nonrecurring, unrecovered costs'' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

(Added Pub. L. 100–322, title IV, § 404(a), May 20, 1988, 102 Stat. 545; amended Pub. L. 101–237, title VI, § 601(a), (b)(1), Dec. 18, 1989, 103 Stat. 2094; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in introductory provisions.

Subsec. (a)(2)(B). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(1)(A). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(2)(A). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary's'' for ''Administrator's''.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1989—Pub. L. 101–237, § 601(b)(1), struck out ''for certain medical items'' after ''Multiyear procurement'' in section catchline.

Subsec. (a). Pub. L. 101–237, § 601(a)(1), struck out ''for use in Veterans' Administration health-care facilities'' after ''supplies or services''.

Subsec. (b)(2)(A). Pub. L. 101–237, § 601(a)(2), struck out ''health-care'' before ''programs, the amount''.

Subsec. (e)(2) to (4). Pub. L. 101–237, § 601(a)(3), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: ''The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.''

§ 115. Acquisition of real property

For the purposes of sections 314, 315, 316, and 2406 of this title and subchapter I of chapter 81 of this title, the Secretary may acquire and use real property—

(1) before title to the property is approved under section 3111 of title 40; and

(2) even though the property will be held in other than a fee simple interest in a case in which the Secretary determines that the interest to be acquired is sufficient for the purposes of the intended use.

(Added Pub. L. 102–86, title IV, § 402(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 102–83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(d)(1), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 107–217, § 3(j)(1), Aug. 21, 2002, 116 Stat. 1300.)

AMENDMENTS

2002—Par. (1). Pub. L. 107–217 substituted ''section 3111 of title 40'' for ''section 355 of the Revised Statutes (40 U.S.C. 255)''.

1994—Pub. L. 103–446 substituted ''sections 314, 315, 316,'' for ''sections 230'' in introductory provisions.

1991—Pub. L. 102–83 substituted ''2406'' for ''1006'' in introductory provisions.

§ 116. Reports to Congress: cost information

Whenever the Secretary submits to Congress, or any committee of Congress, a report that is required by law or by a joint explanatory statement of a committee of conference of the Congress, the Secretary shall include with the report—

(1) a statement of the cost of preparing the report; and

(2) a brief explanation of the methodology used in preparing that cost statement.

(Added Pub. L. 106–419, title IV, § 403(d)(1)(A), Nov. 1, 2000, 114 Stat. 1864.)

EFFECTIVE DATE

Pub. L. 106–419, title IV, § 403(d)(2), Nov. 1, 2000, 114 Stat. 1864, provided that: ''Section 116 of title 38, United States Code, as added by paragraph (1) of this subsection, shall apply with respect to any report submitted by the Secretary of Veterans Affairs after the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 1, 2000].''

CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

Sec.
301. Department.
302. Seal.
303. Secretary of Veterans Affairs.
304. Deputy Secretary of Veterans Affairs.
305. Under Secretary for Health.
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313. Availability of appropriations.
314. Central Office.
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316. Colocation of regional offices and medical centers.
317. Center for Minority Veterans.
318. Center for Women Veterans.
319. Office of Employment Discrimination Complaint Adjudication.
320. Department of Veterans Affairs-Department of Defense Joint Executive Committee.

PRIOR PROVISIONS

Prior chapter 3, consisted of sections 201 to 203, 210 to 224, 230, 231, 233 to 236, and 240 to 246, prior to repeal by Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 378.

Section 201, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1114, established Veterans' Administration as an independent agency in executive branch of Government. See section 301 of this title.

Section 202, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1114, related to seal of Veterans' Administration and authentication of records of Veterans' Administration. See section 302 of this title.

Section 203, added Pub. L. 94–424, § 2(a), Sept. 28, 1976, 90 Stat. 1332; amended Pub. L. 97–258, § 2(j), Sept. 13, 1982, 96 Stat. 1062; Pub. L. 98–160, title VII, § 702(1), Nov. 21, 1983, 97 Stat. 1009, related to availability of appropriations. See section 313 of this title.

Section 210, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1114; Pub. L. 88–426, title III, § 305(15), Aug. 14, 1964, 78 Stat. 424; Pub. L. 89–361, § 1(a), (b), Mar. 7, 1966, 80 Stat. 29; Pub. L. 89–785, title III, § 301, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 92–328, title II, § 201, June 30, 1972, 86 Stat. 396; Pub. L. 95–202, title III, § 301, Nov. 23, 1977, 91 Stat. 1440; Pub. L. 96–22, title V, § 502(a), June 13, 1979, 93 Stat. 64; Pub. L. 97–66, title VI, § 601(a)(1), Oct. 17, 1981, 95 Stat. 1033; Pub. L. 97–452, § 2(e)(1), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 99–166, title IV, § 403(a), Dec. 3, 1985, 99 Stat. 957; Pub. L. 99–576, title V, § 501, title VII, § 701(9), Oct. 28, 1986, 100 Stat. 3285, 3291; Pub. L. 100–527, § 15(a), Oct. 5, 1988, 102 Stat. 2644; Pub. L. 102–40, title III, § 303, May 7, 1991, 105 Stat. 208, related to appointment and general authority of Administrator and Deputy Administrator. See sections 303, 304, 501, 503, 510, and 711 of this title.

Section 211, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89–214, § 1(b), Sept. 29, 1965, 79 Stat. 886; Pub. L. 89–358, § 4(h), Mar. 3, 1966, 80 Stat. 24; Pub. L. 91–376, § 8(a), Aug. 12, 1970, 84 Stat. 790; Pub. L. 100–687, div. A, title I, § 101(a), Nov. 18, 1988, 102 Stat. 4105, related to decisions of Administrator and opinions of Attorney General. See sections 505 and 511 of this title.

Section 212, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89–361, § 2, Mar. 7, 1966, 80 Stat. 30; Pub. L. 99–576, title VII, § 701(10), Oct. 28, 1986, 100 Stat. 3291, related to delegation of authority and assignment of duties. See section 512 of this title.

Section 213, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 89–785, title III, § 302, Nov. 7, 1966, 80 Stat. 1376; Pub. L. 91–24, § 2(c), June 11, 1969, 83 Stat. 33; Pub. L. 99–576, title VII, § 701(11), Oct. 28, 1986, 100 Stat. 3291, related to contracts and acceptance of personal services. See section 513 of this title.

Section 214, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115, required an annual report to Congress by Administrator. See section 529 of this title.

Section 215, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1115; Pub. L. 99–576, title VII, § 701(10), Oct. 28, 1986, 100 Stat. 3291, related to publication of laws relating to veterans. See section 525 of this title.

Section 216, added Pub. L. 100–322, title I, § 132(a), May 20, 1988, 102 Stat. 506; amended Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239, related to assistance to certain rehabilitation activities. See section 521 of this title.

Another prior section 216, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87–572, Aug. 6, 1962, 76 Stat. 307; Pub. L. 88–433, § 1(a)–(c), Aug. 14, 1964, 78 Stat. 441, 442; Pub. L. 89–705, § 1, Nov. 2, 1966, 80 Stat. 1099, which directed Administrator to conduct research in field of prosthetic appliances, prosthesis, orthopedic appliances, and sensory devices, was repealed by Pub. L. 94–581, title II, § 205(c)(1), Oct. 21, 1976, 90 Stat. 2859. See section 7303 of this title.

Section 217, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 99–576, title VII, § 701(10), Oct. 28, 1986, 100 Stat. 3291, related to studies of rehabilitation of disabled persons. See section 522 of this title.

Section 218, added Pub. L. 93–43, § 4(a), June 18, 1973, 87 Stat. 79; amended Pub. L. 98–528, title I, § 101(a)(1), Oct. 19, 1984, 98 Stat. 2686; Pub. L. 99–576, title II, § 211, Oct. 28, 1986, 100 Stat. 3257, related to security and law enforcement on property under jurisdiction of Veterans' Administration. See section 901 et seq. of this title.

Section 219, added Pub. L. 93–508, title II, § 213(a), Dec. 3, 1974, 88 Stat. 1586; amended Pub. L. 99–576, title VII, § 701(12), Oct. 28, 1986, 100 Stat. 3291, related to evaluation of programs and collection of data. See section 527 of this title.

Section 220, added Pub. L. 93–508, title II, § 213(a), Dec. 3, 1974, 88 Stat. 1587; amended Pub. L. 96–466, title VII, § 701(a), (b)(1), Oct. 17, 1980, 94 Stat. 2215; Pub. L. 98–528, title I, § 106(a), (b)(1), Oct. 19, 1984, 98 Stat. 2690, related to coordination and promotion of other programs affecting veterans and their dependents. See section 523 of this title.

Section 221, added Pub. L. 97–37, § 2(a), Aug. 14, 1981, 95 Stat. 935, established Advisory Committee on Former Prisoners of War. See section 541 of this title.

Section 222, added Pub. L. 98–160, title III, § 301(a), Nov. 21, 1983, 97 Stat. 1003, established Advisory Committee on Women Veterans. See section 542 of this title.

Section 223, added Pub. L. 100–687, div. A, title I, § 102(a)(1), Nov. 18, 1988, 102 Stat. 4106, related to rulemaking procedures and judicial review. See sections 501 and 502 of this title.

Section 224, added Pub. L. 100–322, title II, § 203(b)(1), May 20, 1988, 102 Stat. 509, § 223; renumbered § 224, Pub. L. 101–94, title III, § 302(d)(1), Aug. 16, 1989, 103 Stat. 628, related to administrative settlement of tort claims. See section 515 of this title.

Section 230, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 86–103, July 23, 1959, 73 Stat. 224; Pub. L. 87–815, § 5, Oct. 15, 1962, 76 Stat. 927; Pub. L. 91–338, July 16, 1970, 84 Stat. 437; Pub. L. 93–82, title IV, § 401, Aug. 2, 1973, 87 Stat. 196; Pub. L. 95–520, § 2, Oct. 26, 1978, 92 Stat. 1820; Pub. L. 96–22, title V, § 503(a), June 13, 1979, 93 Stat. 65; Pub. L. 96–385, title V, § 501, Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97–295, § 4(6), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 99–108, § 1, Sept. 30, 1985, 99 Stat. 481; Pub. L. 99–166, title IV, § 402, Dec. 3, 1985, 99 Stat. 957; Pub. L. 99–576, title VII, § 701(13), Oct. 28, 1986, 100 Stat. 3291; Pub. L. 100–689,

title V, §501(a), Nov. 18, 1988, 102 Stat. 4179; Pub. L. 101–237, title VI, §603(a), Dec. 18, 1989, 103 Stat. 2095, related to Central Office and regional offices. See sections 314 to 316 of this title.

Section 231, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1116, related to placement of employees in military installations. See section 701 of this title.

Section 232, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1116, which authorized Administrator to contract for services of translators without regard to certain provisions of law, was repealed by Pub. L. 91–24, §2(a), June 11, 1969, 83 Stat. 33.

Section 233, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1116; Pub. L. 87–574, §1(1), Aug. 6, 1962, 76 Stat. 308; Pub. L. 89–785, title III, §303(a), (b), Nov. 7, 1966, 80 Stat. 1376, 1377; Pub. L. 99–576, title VII, §§701(14), 702(2), Oct. 28, 1986, 100 Stat. 3291, 3301, related to providing employee's apparel, transportation of employee children, recreational facilities, educational information, reimbursement for personal property, and emergency transportation. See section 703 of this title.

Section 234, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1117; Pub. L. 93–82, title IV, §402(a), (c), Aug. 2, 1973, 87 Stat. 196, related to telephone service for medical officers and facility directors. See section 705 of this title.

Section 235, added Pub. L. 86–116, §1, July 28, 1959, 73 Stat. 265; amended Pub. L. 87–815, §6, Oct. 15, 1962, 76 Stat. 927; Pub. L. 89–300, §1(c), Oct. 28, 1965, 79 Stat. 1110; Pub. L. 96–22, title V, §503(b), (c)(1), June 13, 1979, 93 Stat. 65; Pub. L. 96–465, title II, §2206(g), Oct. 17, 1980, 94 Stat. 2163; Pub. L. 99–576, title VII, §§701(15), 702(3), Oct. 28, 1986, 100 Stat. 3291, 3301, related to benefits to employees at overseas offices who are United States citizens. See section 707 of this title.

Section 236, added Pub. L. 89–300, §1(a), Oct. 28, 1965, 79 Stat. 1110; amended Pub. L. 99–576, title VII, §701(16), Oct. 28, 1986, 100 Stat. 3292, related to administrative settlement of tort claims arising in foreign countries. See section 515 of this title.

Section 240, added Pub. L. 91–219, title II, §214(a), Mar. 26, 1970, 84 Stat. 84; amended Pub. L. 92–540, title IV, §410(a), Oct. 24, 1972, 86 Stat. 1092, described purpose and defined terms for veterans outreach services program. See section 7721 of this title.

Section 241, added Pub. L. 91–219, title II, §214(a), Mar. 26, 1970, 84 Stat. 84; amended Pub. L. 92–540, title IV, §410(b), Oct. 24, 1972, 86 Stat. 1092; Pub. L. 93–508, title II, §214(1), (2), Dec. 3, 1974, 88 Stat. 1587; Pub. L. 99–576, title VII, §§701(17), 702(4), Oct. 28, 1986, 100 Stat. 3292, 3301, related to outreach services. See section 7722 of this title.

Section 242, added Pub. L. 91–219, title II, §214(a), Mar. 26, 1970, 84 Stat. 85; amended Pub. L. 93–508, title II, §214(3), Dec. 3, 1974, 88 Stat. 1587; Pub. L. 99–576, title VII, §701(18), Oct. 28, 1986, 100 Stat. 3292, related to veterans assistance offices. See section 7723 of this title.

Section 243, added Pub. L. 93–508, title II, §214(4), Dec. 3, 1974, 88 Stat. 1587; amended Pub. L. 97–295, §4(7), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 97–306, title II, §201(a), Oct. 14, 1982, 96 Stat. 1433, related to outstationing of counseling and outreach personnel. See section 7724 of this title.

Section 244, added Pub. L. 91–219, title II, §214(a), Mar. 26, 1970, 84 Stat. 85, §243; renumbered §244 and amended Pub. L. 93–508, title II, §214(4), (5), Dec. 3, 1974, 88 Stat. 1587, 1588; Pub. L. 96–466, title V, §501, Oct. 17, 1980, 94 Stat. 2202; Pub. L. 99–576, title VII, §701(19), Oct. 28, 1986, 100 Stat. 3292, related to utilization of other agencies. See section 7725 of this title.

Section 245, added Pub. L. 91–219, title II, §214(a), Mar. 26, 1970, 84 Stat. 85, §244; renumbered §245, Pub. L. 93–508, title II, §214(4), Dec. 3, 1974, 88 Stat. 1587, related to an annual report to Congress on the effectiveness of outreach programs. See section 7726 of this title.

Section 246, added Pub. L. 95–202, title III, §310(b)(1), Nov. 23, 1977, 91 Stat. 1446; amended Pub. L. 95–336, §6(b), Aug. 4, 1978, 92 Stat. 453; Pub. L. 97–295, §4(8), Oct. 12, 1982, 96 Stat. 1305, related to veterans cost-of-instruction payments to institutions of higher learning.

AMENDMENTS

2003—Pub. L. 108–136, div. A, title V, §583(a)(2), Nov. 24, 2003, 117 Stat. 1491, added item 320.

1998—Pub. L. 105–368, title IV, §403(c)(1)(B), Nov. 11, 1998, 112 Stat. 3338, substituted ''Under Secretary for Memorial Affairs'' for ''Director of the National Cemetery System'' in item 307.

1997—Pub. L. 105–114, title I, §102(a)(2), Nov. 21, 1997, 111 Stat. 2281, added item 319.

1996—Pub. L. 104–106, div. E, title LVI, §5608(b), Feb. 10, 1996, 110 Stat. 702, substituted ''Chief Information Officer'' for ''Chief Information Resources Officer'' in item 310.

1994—Pub. L. 103–446, title V, §509(b), Nov. 2, 1994, 108 Stat. 4668, substituted ''Center for Minority Veterans'' for ''Chief Minority Affairs Officer'' in item 317 and added item 318.

1992—Pub. L. 102–405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984, substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in item 305 and ''Under Secretary for Benefits'' for ''Chief Benefits Director'' in item 306.

1991—Pub. L. 102–218, §1(b), Dec. 11, 1991, 105 Stat. 1672, added item 317.

§301. Department

(a) The Department of Veterans Affairs is an executive department of the United States.

(b) The purpose of the Department is to administer the laws providing benefits and other services to veterans and the dependents and the beneficiaries of veterans.

(c) The Department is composed of the following:

(1) The Office of the Secretary.
(2) The Veterans Health Administration.
(3) The Veterans Benefits Administration.
(4) The National Cemetery Administration.
(5) The Board of Veterans' Appeals.
(6) The Veterans' Canteen Service.
(7) The Board of Contract Appeals.
(8) Such other offices and agencies as are established or designated by law or by the President or the Secretary.
(9) Any office, agency, or activity under the control or supervision of any element named in paragraphs (1) through (8).

(Added Pub. L. 102–83, §2(a), Aug. 6, 1991, 105 Stat. 378; amended Pub. L. 105–368, title IV, §403(a)(2), Nov. 11, 1998, 112 Stat. 3338.)

PRIOR PROVISIONS

Prior section 301 was renumbered section 1101 of this title.

Provisions similar to those in subsec. (a) of this section were contained in section 2 of Pub. L. 100–527, known as the Department of Veterans Affairs Act.

Provisions similar to those in subsec. (b) of this section were contained in section 201 of this title prior to repeal by Pub. L. 102–83, §2(a).

AMENDMENTS

1998—Subsec. (c)(4). Pub. L. 105–368 substituted ''Administration'' for ''System''.

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Veterans Affairs are unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, set out as a note under section 3345 of Title 5, Government Organization and Employees.

RENAMING OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION

Pub. L. 102–40, §2, May 7, 1991, 105 Stat. 187, provided that:

''(a) RENAMING.—The establishment in the Department of Veterans Affairs known as the Veterans Health Services and Research Administration is hereby redesignated as the Veterans Health Administration.

''(b) REFERENCES.—Any reference to the Veterans Health Services and Research Administration (or to the Department of Medicine and Surgery of the Veterans' Administration) in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to refer to the Veterans Health Administration.''

DEPARTMENT OF VETERANS AFFAIRS ACT

Pub. L. 100–527, §§1–12, 14, 16, 18, Oct. 25, 1988, 102 Stat. 2635–2642, 2644, 2645, 2648, as amended by Pub. L. 101–94, title IV, §401, Aug. 16, 1989, 103 Stat. 628; Pub. L. 101–576, title II, §205(c)(2), Nov. 15, 1990, 104 Stat. 2845; Pub. L. 102–83, §3, Aug. 6, 1991, 105 Stat. 402, provided that:

''SECTION 1. SHORT TITLE.

''This Act [see Tables for classification] may be cited as the 'Department of Veterans Affairs Act'.

''SEC. 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

''The Veterans' Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government.

''[SECS. 3 to 5. Repealed. Pub. L. 102–83, §3(3), Aug. 6, 1991, 105 Stat. 402.]

''SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

''The establishment within the Veterans' Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

''SEC. 7. VETERANS BENEFITS ADMINISTRATION.

''The establishment within the Veterans' Administration known as the Department of Veterans' Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs.

''SEC. 8. OFFICE OF THE GENERAL COUNSEL.

''[(a) Repealed. Pub. L. 102–83, §3(3), Aug. 6, 1991, 105 Stat. 402.]

''(b) CONTINUATION OF SERVICE OF GENERAL COUNSEL.—The individual serving on the effective date of this Act [Mar. 15, 1989] as the General Counsel of the Veterans' Administration may act as the General Counsel of the Department of Veterans Affairs until a person is appointed under this Act to that office.

''SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

''(a) REDESIGNATION.—The Office of Inspector General of the Veterans' Administration, established in accordance with the Inspector General Act of 1978 [Pub. L. 95–452, set out in the Appendix to Title 5, Government Organization and Employees], is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

''[(b) Repealed. Pub. L. 102–83, §3(3), Aug. 6, 1991, 105 Stat. 402.]

''SEC. 10. REFERENCES.

''Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration—

''(1) to the Administrator of Veterans' Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

''(2) to the Veterans' Administration shall be deemed to refer to the Department of Veterans Affairs;

''(3) to the Deputy Administrator of Veterans' Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

''(4) to the Chief Medical Director of the Veterans' Administration shall be deemed to refer to the Chief Medical Director [now Under Secretary for Health] of the Department of Veterans Affairs;

''(5) to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

''(6) to the Chief Benefits Director of the Veterans' Administration shall be deemed to refer to the Chief Benefits Director [now Under Secretary for Benefits] of the Department of Veterans Affairs;

''(7) to the Department of Veterans' Benefits of the Veterans' Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

''(8) to the Chief Memorial Affairs Director of the Veterans' Administration shall be deemed to refer to the Director of the National Cemetery System [now Under Secretary of Veterans Affairs for Memorial Affairs] of the Department of Veterans Affairs; and

''(9) to the Department of Memorial Affairs of the Veterans' Administration shall be deemed to refer to the National Cemetery System [now National Cemetery Administration] of the Department of Veterans Affairs.

''SEC. 11. SAVINGS PROVISIONS.

''(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

''(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans' Administration; and

''(2) which are in effect on the effective date of this Act [Mar. 15, 1989];

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

''(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

''(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

''(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

''(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the ef-

fective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

''(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

''(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

''(2) who continues to serve as Chief Medical Director [now Under Secretary for Health] or Chief Benefits Director [now Under Secretary for Benefits] of such department under section 3(f) or (g), respectively;

''(3) who acts as the Director of the National Cemetery System [now Under Secretary of Veterans Affairs for Memorial Affairs] under section 3(h); or

''(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

''[SEC. 12. Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

''SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

''After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act [Oct. 25, 1988].

''[SEC. 16. Repealed. Pub. L. 102–83, § 3(3), Aug. 6, 1991, 105 Stat. 402.]

''SEC. 18. EFFECTIVE DATE.

''(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

''(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.''

§ 302. Seal

(a) The Secretary of Veterans Affairs shall cause a seal of office to be made for the Department of such device as the President shall approve. Judicial notice shall be taken of the seal.

(b) Copies of any public document, record, or paper belonging to or in the files of the Department, when authenticated by the seal and certified by the Secretary (or by an officer or employee of the Department to whom authority has been delegated in writing by the Secretary), shall be evidence equal with the original thereof.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 379.)

PRIOR PROVISIONS

Prior section 302 was renumbered section 1102 of this title.

Provisions similar to those in this section were contained in section 202 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 303. Secretary of Veterans Affairs

There is a Secretary of Veterans Affairs, who is the head of the Department and is appointed by the President, by and with the advice and consent of the Senate. The Secretary is responsible for the proper execution and administration of all laws administered by the Department and for the control, direction, and management of the Department.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 379.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 210(a), (b)(1) of this title and in second and third sentences of section 2 of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, §§ 2(a), 3(1).

NATIONAL CENTER ON WAR-RELATED ILLNESSES AND POST-DEPLOYMENT HEALTH ISSUES

Pub. L. 105–368, title I, § 103, Nov. 11, 1998, 112 Stat. 3322, provided that:

''(a) ASSESSMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate independent organization, under which such entity shall assist in developing a plan for the establishment of a national center or national centers for the study of war-related illnesses and post-deployment health issues. The purposes of such a center may include—

''(1) carrying out and promoting research regarding the etiologies, diagnosis, treatment, and prevention of war-related illnesses and post-deployment health issues; and

''(2) promoting the development of appropriate health policies, including monitoring, medical recordkeeping, risk communication, and use of new technologies.

''(b) RECOMMENDATIONS AND REPORT.—With respect to such a center, an agreement under this section shall provide for the Academy (or other entity) to—

''(1) make recommendations regarding: (A) design of an organizational structure or structures, operational scope, staffing and resource needs, establishment of appropriate databases, the advantages of single or multiple sites, mechanisms for implementing recommendations on policy, and relationship to academic or scientific entities; (B) the role or roles that relevant Federal departments and agencies should have in the establishment and operation of any such center or centers; and (C) such other matters as it considers appropriate; and

''(2) report to the Secretary, the Secretaries of Defense and Health and Human Services, and the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 1 year after the date of the enactment of this Act [Nov. 11, 1998], on its recommendations.

''(c) REPORT ON ESTABLISHMENT OF NATIONAL CENTER.—Not later than 60 days after receiving the report under subsection (b), the Secretaries specified in subsection (b)(2) shall submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and Natoinal [sic] Security of the House of Representatives a joint report on the findings and recommendations contained in that report. Such report may set forth an operational plan for carrying out any recommendation in that report to establish a national center or centers for the study of war-related illnesses. No action to carry out such plan may be taken after the submission of such report until the end of a 90-day period following the date of the submission.''

SPECIFICATION IN BUDGET SUBMISSIONS OF FUNDS FOR CERTAIN VETERANS BENEFITS

Pub. L. 100–687, div. B, title XIV, § 1404, Nov. 18, 1988, 102 Stat. 4131, as amended by Pub. L. 102–83, §§ 5(c)(2), 6(k)(3), Aug. 6, 1991, 105 Stat. 406, 409, provided that:

''(a) BUDGET INFORMATION.—In the documentation providing detailed information on the budgets for the

Department of Veterans Affairs and the Department of Labor that the Secretary of Veterans Affairs and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Secretary of Veterans Affairs and the Secretary of Labor shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Department of Veterans Affairs accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to, or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities:

''(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

''(2) Compensation under chapter 11 of title 38, United States Code.

''(3) Dependency and Indemnity Compensation under chapter 13 of such title.

''(4) Pension under chapter 15 of such title.

''(5) Inpatient hospital care under chapter 17 of such title.

''(6) Outpatient medical care under chapter 17 of such title.

''(7) Nursing home care under chapter 17 of such title.

''(8) Domiciliary care under chapter 17 of such title.

''(9) Readjustment counseling services under section 1712A of such title.

''(10) Insurance under chapter 19 of such title.

''(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

''(12) Burial benefits under chapter 23 of such title.

''(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

''(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

''(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

''(16) Home loan benefits under chapter 37 of such title.

''(17) Automobiles and adaptive equipment under chapter 39 of such title.

''(b) REPORT ON FEASIBILITY.—If the Secretary of Veterans Affairs or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furnishing such services or benefits only to veterans described in that subsection for any fiscal year, the Secretary of Veterans Affairs and the Secretary of Labor shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasibility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information, systems, equipment, or personnel that would be required in order for it to be feasible for the Secretary of Veterans Affairs or the Secretary of Labor to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.''

INFORMATION AND TRAINING CONCERNING AIDS PREVENTION

Pub. L. 100–322, title I, § 123, May 20, 1988, 102 Stat. 504, as amended by Pub. L. 102–83, § 6(j)(2), Aug. 6, 1991, 105 Stat. 409; Pub. L. 102–531, title III, § 312(c), Oct. 27, 1992, 106 Stat. 3504, provided that:

''(a) INFORMATION PROGRAM.—The Secretary of Veterans Affairs shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as 'AIDS'). The information program shall be for employees and consultants of the Department of Veterans Affairs, for other persons providing services in Department of Veterans Affairs facilities to beneficiaries of programs administered by the Department of Veterans Affairs, and for such beneficiaries.

''(b) REQUIRED ELEMENTS OF INFORMATION PROGRAM.—In conducting the program under subsection (a), the Secretary shall—

''(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control and Prevention, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

''(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

''(3) make publications and other suitable materials containing such information readily available in Department of Veterans Affairs health-care facilities and such other Department of Veterans Affairs facilities as the Secretary considers appropriate; and

''(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Department of Veterans Affairs substance abuse treatment personnel, to each person being furnished treatment by the Department of Veterans Affairs for drug abuse, and to each person receiving care or services from the Department of Veterans Affairs whom the Secretary believes to be at high risk for AIDS.

''(c) TRAINING IN AIDS PREVENTION.—The Secretary shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Department of Veterans Affairs.''

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Veterans Affairs, see Parts 1, 2, and 27 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

§ 304. Deputy Secretary of Veterans Affairs

There is in the Department a Deputy Secretary of Veterans Affairs, who is appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe. Unless the President designates another officer of the Government, the Deputy Secretary shall be Acting Secretary of Veterans Affairs during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 379.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 210(d) of this title and in section 3(a) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, §§ 2(a), 3(3).

ORDER OF SUCCESSION

For order of succession during any period when both Secretary and Deputy Secretary of Veterans Affairs are

unable to perform functions and duties of office of Secretary, see Ex. Ord. No. 13247, Dec. 18, 2001, 66 F.R. 66271, set out as a note under section 3345 of Title 5, Government Organization and Employees.

§ 305. Under Secretary for Health

(a)(1) There is in the Department an Under Secretary for Health, who is appointed by the President, by and with the advice and consent of the Senate.

(2) The Under Secretary for Health shall be appointed without regard to political affiliation or activity and solely—

(A) on the basis of demonstrated ability in the medical profession, in health-care administration and policy formulation, or in health-care fiscal management; and

(B) on the basis of substantial experience in connection with the programs of the Veterans Health Administration or programs of similar content and scope.

(b) The Under Secretary for Health is the head of, and is directly responsible to the Secretary for the operation of, the Veterans Health Administration.

(c) The Under Secretary for Health shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Under Secretary for Health before the completion of the term for which the Under Secretary for Health was appointed, the President shall communicate the reasons for the removal to Congress.

(d)(1) Whenever a vacancy in the position of Under Secretary for Health occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

(2) A commission established under this subsection shall be composed of the following members appointed by the Secretary:

(A) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Administration.

(B) Two persons representing veterans served by the Veterans Health Administration.

(C) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(D) The Deputy Secretary of Veterans Affairs.

(E) The Chairman of the Special Medical Advisory Group established under section 7312 of this title.

(F) One person who has held the position of Under Secretary for Health (including service as Chief Medical Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the commission.

(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Health. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

(4) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this subsection.

(Added and amended Pub. L. 102–83, §§ 2(a), 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 379, 404; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(c)(1), (e)(2), Nov. 2, 1994, 108 Stat. 4683, 4685; Pub. L. 108–422, title V, § 503, Nov. 30, 2004, 118 Stat. 2396.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3(b) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–422, § 503(1), struck out ''shall be a doctor of medicine and'' after ''The Under Secretary for Health'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 108–422, § 503(2), substituted ''or in health-care'' for ''and in health-care''.

1994—Subsec. (a)(1). Pub. L. 103–446, § 1201(c)(1)(A), substituted ''an Under Secretary'' for ''a Under Secretary''.

Subsec. (d)(2)(F). Pub. L. 103–446, § 1201(c)(1)(B), (e)(2), substituted ''Chief Medical Director of the Veterans' Administration)'' for ''Under Secretary for Health of the Department)'' and ''commission'' for ''Commission''.

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

1991—Subsec. (d)(2)(F). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

CHANGE OF NAME

Section 302(a) of Pub. L. 102–405 provided that: ''The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.''

Section 302(e) of Pub. L. 102–405 provided that: ''Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs—

''(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

''(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.''

§ 306. Under Secretary for Benefits

(a) There is in the Department an Under Secretary for Benefits, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary for Benefits shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in—

(1) fiscal management; and

(2) the administration of programs within the Veterans Benefits Administration or programs of similar content and scope.

(b) The Under Secretary for Benefits is the head of, and is directly responsible to the Sec-

retary for the operations of, the Veterans Benefits Administration.

(c) The Under Secretary for Benefits shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Under Secretary for Benefits before the completion of the term for which the Under Secretary for Benefits was appointed, the President shall communicate the reasons for the removal to Congress.

(d)(1) Whenever a vacancy in the position of Under Secretary for Benefits occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

(2) A commission established under this subsection shall be composed of the following members appointed by the Secretary:

(A) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

(B) Two persons representing veterans served by the Veterans Benefits Administration.

(C) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope.

(D) The Deputy Secretary of Veterans Affairs.

(E) The chairman of the Veterans' Advisory Committee on Education formed under section 3692 of this title.

(F) One person who has held the position of Under Secretary for Benefits (including service as Chief Benefits Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the commission.

(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Under Secretary for Benefits. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

(4) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this subsection.

(Added and amended Pub. L. 102–83, §§ 2(a), 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 380, 404; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(c)(2), (e)(2), Nov. 2, 1994, 108 Stat. 4683, 4685.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3(c) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446, § 1201(c)(2)(A), substituted ''an Under Secretary'' for ''a Under Secretary''.

Subsec. (d)(2)(F). Pub. L. 103–446, § 1201(c)(2)(B), (e)(2), substituted ''Chief Benefits Director of the Veterans' Administration)'' for ''Under Secretary for Benefits of the Department)'' and ''commission'' for ''Commission''.

1992—Pub. L. 102–405 substituted ''Under Secretary for Benefits'' for ''Chief Benefits Director'' wherever appearing.

1991—Subsec. (d)(2)(F). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

CHANGE OF NAME

Section 302(b) of Pub. L. 102–405 provided that: ''The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.''

§ 307. Under Secretary for Memorial Affairs

There is in the Department an Under Secretary for Memorial Affairs, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary is the head of the National Cemetery Administration as established in section 2400 of this title and shall perform such functions as may be assigned by the Secretary.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 381; amended Pub. L. 105–368, title IV, § 403(a)(3), (c)(1)(A), Nov. 11, 1998, 112 Stat. 3338.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 3(d) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

1998—Pub. L. 105–368, § 403(c)(1)(A), substituted ''Under Secretary for Memorial Affairs'' for ''Director of the National Cemetery System'' in section catchline.

Pub. L. 105–368, § 403(a)(3), in first sentence, substituted ''an Under Secretary for Memorial Affairs'' for ''a Director of the National Cemetery System'' and, in second sentence, substituted ''The Under Secretary is the head of the National Cemetery Administration'' for ''The Director is the head of the National Cemetery System''.

§ 308. Assistant Secretaries; Deputy Assistant Secretaries

(a) There shall be in the Department not more than seven Assistant Secretaries. Each Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Secretary shall assign to the Assistant Secretaries responsibility for the administration of such functions and duties as the Secretary considers appropriate, including the following functions:

(1) Budgetary and financial functions.

(2) Personnel management and labor relations functions.

(3) Planning, studies, and evaluations.

(4) Management, productivity, and logistic support functions.

(5) Information management functions as required by section 3506 of title 44.

(6) Capital facilities and real property program functions.

(7) Equal opportunity functions.

(8) Functions regarding the investigation of complaints of employment discrimination within the Department.

(9) Functions regarding intergovernmental, public, and consumer information and affairs.

(10) Procurement functions.

(11) Operations, preparedness, security, and law enforcement functions.

(c) Whenever the President nominates an individual for appointment as an Assistant Secretary, the President shall include in the communication to the Senate of the nomination a statement of the particular functions of the Department specified in subsection (b), and any other functions of the Department, the individual will exercise upon taking office.

(d)(1) There shall be in the Department such number of Deputy Assistant Secretaries, not exceeding 19, as the Secretary may determine. Each Deputy Assistant Secretary shall be appointed by the Secretary and shall perform such functions as the Secretary prescribes.

(2) At least two-thirds of the number of positions established and filled under paragraph (1) shall be filled by individuals who have at least five years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment as a Deputy Assistant Secretary. For purposes of determining such continuous service of an individual, there shall be excluded any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5; or

(C) to which such individual was appointed by the President.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 381; amended Pub. L. 107–287, § 5(a)–(c), Nov. 7, 2002, 116 Stat. 2030.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4(a), (b), (e) and 5 of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–287, § 5(a), substituted ''seven'' for ''six'' in first sentence.

Subsec. (b)(11). Pub. L. 107–287, § 5(b), added par. (11).

Subsec. (d)(1). Pub. L. 107–287, § 5(c), substituted ''19'' for ''18''.

§ 309. Chief Financial Officer

The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department. The Chief Financial Officer shall advise the Secretary on financial management of the Department and shall exercise the authority and carry out the functions specified in section 902 of title 31.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 382.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4(c) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

§ 310. Chief Information Officer

(a) The Chief Information Officer for the Department is designated pursuant to section 3506(a)(2) of title 44.

(b) The Chief Information Officer performs the duties provided for chief information officers of executive agencies under chapter 35 of title 44 and subtitle III of title 40.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 382; amended Pub. L. 104–106, div. E, title LVI, § 5604, Feb. 10, 1996, 110 Stat. 700; Pub. L. 105–85, div. A, title X, § 1073(h)(3), Nov. 18, 1997, 111 Stat. 1907; Pub. L. 107–217, § 3(j)(2), Aug. 21, 2002, 116 Stat. 1300.)

PRIOR PROVISIONS

Prior section 310 was renumbered section 1110 of this title.

Provisions similar to those in this section were contained in section 4(d) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–217 substituted ''subtitle III of title 40'' for ''division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)''.

1997—Subsec. (b). Pub. L. 105–85 substituted ''division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)'' for ''the Information Technology Management Reform Act of 1996''.

1996—Pub. L. 104–106 substituted ''Chief Information Officer'' for ''Chief Information Resources Officer'' in section catchline and amended text generally. Prior to amendment, text consisted of subsecs. (a) to (d), relating to designation, powers, and duties of the Chief Information Resources Officer.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective 180 days after Feb. 10, 1996, see section 5701 of Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 702.

§ 311. General Counsel

There is in the Department the Office of the General Counsel. There is at the head of the office a General Counsel, who is appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief legal officer of the Department and provides legal assistance to the Secretary concerning the programs and policies of the Department.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 383.)

PRIOR PROVISIONS

Prior section 311 was renumbered section 1111 of this title.

Provisions similar to those in this section were contained in section 8(a) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

§ 312. Inspector General

(a) There is in the Department an Inspector General, who is appointed by the President, by and with the advice and consent of the Senate, as provided in the Inspector General Act of 1978 (5 U.S.C. App.). The Inspector General performs

the functions, has the responsibilities, and exercises the powers specified in that Act.

(b)(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on March 15, 1989.

(2) The President shall include in the budget transmitted to the Congress for each fiscal year pursuant to section 1105 of title 31 an estimate of the amount for the Office of Inspector General that is sufficient to provide for a number of full-time positions in that office that is not less than the number of full-time positions in that office on March 15, 1989, plus 40.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 383; amended Pub. L. 103–446, title XII, § 1201(e)(3), (g)(1), Nov. 2, 1994, 108 Stat. 4685, 4687.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Prior section 312 was renumbered section 1112 of this title.

Provisions similar to those in this section were contained in section 9(b) of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446, § 1201(e)(3), substituted ''(5 U.S.C. App.)'' for ''(5 U.S.C. App. 3)''.

Subsec. (b)(3). Pub. L. 103–446, § 1201(g)(1), struck out par. (3) which read as follows: ''The Secretary shall provide the number of additional full-time positions in the Office of Inspector General required by paragraph (1) not later than September 30, 1991.''

§ 313. Availability of appropriations

(a) Funds appropriated to the Department may remain available until expended.

(b) Funds appropriated to the Department may not be used for a settlement of more than $1,000,000 on a construction contract unless—

(1) the settlement is audited by an entity outside the Department for reasonableness and appropriateness of expenditures; and

(2) the settlement is provided for specifically in an appropriation law.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 383.)

PRIOR PROVISIONS

Prior section 313 was renumbered section 1113 of this title.

Provisions similar to those in this section were contained in section 203 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 314. Central Office

The Central Office of the Department shall be in the District of Columbia.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 383.)

PRIOR PROVISIONS

Prior section 314 was renumbered section 1114 of this title.

Provisions similar to those in this section were contained in section 230(a) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 315. Regional offices

(a) The Secretary may establish such regional offices and such other field offices within the United States, its Territories, Commonwealths, and possessions, as the Secretary considers necessary.

(b) The Secretary may maintain a regional office in the Republic of the Philippines until December 31, 2009.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 384; amended Pub. L. 102–291, § 1(a), May 20, 1992, 106 Stat. 178; Pub. L. 103–210, § 2(c), Dec. 20, 1993, 107 Stat. 2497; Pub. L. 103–446, title V, § 502, Nov. 2, 1994, 108 Stat. 4663; Pub. L. 106–117, title VIII, § 802, Nov. 30, 1999, 113 Stat. 1586; Pub. L. 108–183, title II, § 213, Dec. 16, 2003, 117 Stat. 2658.)

PRIOR PROVISIONS

Prior section 315 was renumbered section 1115 of this title.

Provisions similar to those in this section were contained in section 230(a), (b) of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–183 substituted ''December 31, 2009'' for ''December 31, 2003''.

1999—Subsec. (b). Pub. L. 106–117 substituted ''December 31, 2003'' for ''December 31, 1999''.

1994—Subsec. (b). Pub. L. 103–446 substituted ''December 31, 1999'' for ''December 31, 1994''.

1993—Subsec. (b). Pub. L. 103–210 substituted ''December 31, 1994'' for ''March 31, 1994''.

1992—Subsec. (b). Pub. L. 102–291 substituted ''March 31, 1994'' for ''September 30, 1991''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1(b) of Pub. L. 102–291 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of September 30, 1991.''

RATIFICATION OF MAINTENANCE OF OFFICE DURING LAPSED PERIOD

Section 1(c) of Pub. L. 102–291 provided that: ''Any action of the Secretary of Veterans Affairs in maintaining a Department of Veterans Affairs Regional Office in the Republic of the Philippines under section 315(b) of title 38, United States Code, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act [May 20, 1992] is hereby ratified with respect to that period.''

§ 316. Colocation of regional offices and medical centers

(a) To provide for a more economical, efficient, and effective operation of such regional offices, the Secretary shall provide for the colocation of at least three regional offices with medical centers of the Department—

(1) on real property under the jurisdiction of the Department of Veterans Affairs at such medical centers; or

(2) on real property that is adjacent to such a medical center and is under the jurisdiction of the Department as a result of being conveyed to the United States for the purpose of such colocation.

(b)(1) In carrying out this section and notwithstanding any other provision of law, the Sec-

retary may lease, with or without compensation and for a period of not to exceed 35 years, to another party at not more than seven locations any of the real property described in paragraph (1) or (2) of subsection (a).

(2) Such real property shall be used as the site of a facility—

(A) constructed and owned by the lessee of such real property; and

(B) leased under subsection (c)(1) to the Department for such use and such other activities as the Secretary determines are appropriate.

(c)(1) The Secretary may enter into a lease for the use of any facility described in subsection (b)(2) for not more than 35 years under such terms and conditions as may be in the best interests of the Department.

(2) Each agreement for such a lease shall provide—

(A) that the obligation of the United States to make payments under the agreement is subject to the availability of appropriations for that purpose; and

(B) that the ownership of the facility shall vest in the United States at the end of such lease.

(d)(1) The Secretary may sublease any space in such a facility to another party at a rate not less than—

(A) the rental rate paid by the Secretary for such space under subsection (c); plus

(B) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

(2) In any such sublease, the Secretary shall include such terms relating to default and nonperformance as the Secretary considers appropriate to protect the interests of the United States.

(e) The Secretary shall use the receipts of any payment for the lease of real property under subsection (b) for the payment of the lease of a facility under subsection (c).

(f)(1) Subject to paragraph (3)(A), the Secretary shall, not later than April 18, 1990, issue an invitation for offers with respect to three colocations to be carried out under this section. The invitation shall include, with respect to each such colocation, at least the following:

(A) Identification of the site to be developed.

(B) Minimum office space requirements for regional office activities.

(C) Design criteria of the facility to be constructed.

(D) A plan for meeting the security and parking needs for the facility and its occupants and visitors.

(E) A statement of current and projected rents and other costs for regional office activities.

(F) The estimated cost of construction of the facility concerned, the estimated annual cost of leasing space for regional office activities in the facility, and the estimated total annual cost of leasing all space in such facility.

(G) A plan for securing appropriate licenses, easements, and rights-of-way.

(H) A list of terms and conditions the Secretary has approved for inclusion in the lease agreement for the facility concerned.

(2) Subject to paragraph (3)(B), the Secretary shall—

(A) not later than one year after the date on which the invitation is issued under paragraph (1), enter into an agreement to carry out one colocation under this subsection; and

(B) within 180 days after entering into the agreement referred to in subparagraph (A), enter into agreements to carry out two additional colocations,

unless the Secretary determines that it is not economically feasible for the Department to undertake them, taking into consideration all of the tangible and intangible benefits associated with such colocations.

(3) The Secretary shall—

(A) at least 10 days before the issuance or other publication of the invitation referred to in paragraph (1), submit a copy of the invitation to the Committees on Veterans' Affairs of the Senate and House of Representatives; and

(B) at least 30 days before entering into an agreement under paragraph (2), submit a copy to the Committees on Veterans' Affairs of the Senate and House of Representatives of the proposals selected by the Secretary from those received in response to the invitation issued under paragraph (1).

(g) The authority to enter into an agreement under this section shall expire on September 30, 1992.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 384.)

PRIOR PROVISIONS

Prior section 316 was renumbered section 1116 of this title.

§ 317. Center for Minority Veterans

(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

(b) The Director shall be a career or noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

(d) The Director shall perform the following functions with respect to veterans who are minorities:

(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with out-

reach activities carried out under chapter 77 of this title.

(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (42 U.S.C. 289a–2) with respect to the inclusion of minorities in clinical research and on particular health conditions affecting the health of members of minority groups which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are minorities.

(11) Provide support and administrative services to the Advisory Committee on Minority Veterans provided for under section 544 of this title.

(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

(1) detailed information on the budget for the Center;

(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

(g) In this section—

(1) The term ''veterans who are minorities'' means veterans who are minority group members.

(2) The term ''minority group member'' has the meaning given such term in section 544(d) of this title.

(Added Pub. L. 103–446, title V, § 509(a), Nov. 2, 1994, 108 Stat. 4665; amended Pub. L. 104–275, title V, § 501(a)–(c), Oct. 9, 1996, 110 Stat. 3340.)

PRIOR PROVISIONS

Prior section 317, added Pub. L. 102–218, § 1(a), Dec. 11, 1991, 105 Stat. 1671; amended Pub. L. 103–446, title XII, § 1201(e)(4), Nov. 2, 1994, 108 Stat. 4685, related to Chief Minority Affairs Officer, prior to repeal by Pub. L. 103–446, § 509(a).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–275, § 501(a), inserted ''career or'' before ''noncareer''.

Subsec. (d)(10) to (12). Pub. L. 104–275, § 501(b), added pars. (10) and (11) and redesignated former par. (10) as (12).

Subsec. (g). Pub. L. 104–275, § 501(c), added subsec. (g).

§ 318. Center for Women Veterans

(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

(b) The Director shall be a career or noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

(d) The Director shall perform the following functions with respect to veterans who are women:

(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services

provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

(9) Publicize the results of medical research which are of particular significance to veterans who are women.

(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (42 U.S.C. 289a–2) with respect to the inclusion of women in clinical research and on particular health conditions affecting women's health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

(1) detailed information on the budget for the Center;

(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

(Added Pub. L. 103–446, title V, §509(a), Nov. 2, 1994, 108 Stat. 4666; amended Pub. L. 104–275, title V, §501(a), (d), Oct. 9, 1996, 110 Stat. 3340, 3341.)

PRIOR PROVISIONS

Prior sections 321, 322, and 331 to 335 were renumbered sections 1121, 1122, and 1131 to 1135 of this title, respectively.

Prior section 336, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, set forth the conditions under which wartime rates were payable to any veteran otherwise entitled to compensation under subchapter IV of chapter 11 of this title, prior to repeal by Pub. L. 92–328, title I, §108(c), title III, §301(b), June 30, 1972, 86 Stat. 396, 398, effective July 1, 1973.

Prior sections 337, 341, and 342 were renumbered sections 1137, 1141, and 1142 of this title, respectively.

Prior section 343, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, prescribed conditions under which wartime rates of compensation were payable, prior to repeal by Pub. L. 93–295, title II, §206(b), title IV, §401, May 31, 1974, 88 Stat. 183, 184, effective May 1, 1974.

Prior sections 351 to 355 were renumbered sections 1151 to 1155 of this title, respectively.

Prior section 356, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1125, provided for a minimum rating for veterans with arrested tuberculosis, prior to repeal by Pub. L. 90–493, §4, Aug. 19, 1968, 82 Stat. 809, but repeal not applicable in case of veteran who on Aug. 19, 1968, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest.

Prior sections 357 to 363 were renumbered sections 1157 to 1163 of this title, respectively.

Prior sections 401 and 402 were renumbered sections 1301 and 1302 of this title, respectively.

Prior section 403, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127; Pub. L. 91–96, §2, Oct. 27, 1969, 83 Stat. 144, defined Reserve Officer Training Corps annual training duty and authorized travel to and from such duty as active military service for the purposes of chapter 11 of this title and former section 722 of this title, prior to repeal by Pub. L. 97–306, title I, §113(b)(1), (d), Oct. 14, 1982, 96 Stat. 1432, 1433, effective Oct. 1, 1982, with respect to deaths and disabilities resulting from diseases or injuries incurred or aggravated after Sept. 30, 1982, and Oct. 1, 1983, with respect to deaths and disabilities incurred or aggravated before Oct. 1, 1982.

Prior sections 404, 410 to 418, and 421 to 423 were renumbered sections 1304, 1310 to 1318, and 1321 to 1323 of this title, respectively.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–275, §501(a), inserted ''career or'' before ''noncareer''.

Subsec. (d)(10). Pub. L. 104–275, §501(d), substituted ''(42 U.S.C. 289a–2) with respect to the inclusion of women in clinical research and on'' for ''(relating to the inclusion of women and minorities in clinical research) and of''.

ASSESSMENT OF USE BY WOMEN VETERANS OF DEPARTMENT OF VETERANS AFFAIRS HEALTH SERVICES

Pub. L. 104–262, title III, §323, Oct. 9, 1996, 110 Stat. 3196, provided that:

''(a) REPORTS TO UNDER SECRETARY FOR HEALTH.—The Center for Women Veterans of the Department of Veterans Affairs (established under section 509 of Public Law 103–446 [enacting this section and section 317 of this title and repealing former section 317 of this title]), in consultation with the Advisory Committee on Women Veterans, shall assess the use by women veterans of health services through the Department of Veterans Affairs, including counseling for sexual trauma and mental health services. The Center shall submit to the Under Secretary for Health of the Department of Veterans Affairs a report not later than April 1, 1997, and April 1 of each of the two following years, on—

''(1) the extent to which women veterans described in paragraphs (1) and (2) of section 1710(a) of title 38, United States Code, fail to seek, or face barriers in seeking, health services through the Department, and the reasons therefor; and

''(2) recommendations, if indicated, for encouraging greater use of such services, including (if appropriate) public service announcements and other outreach efforts.

''(b) REPORTS TO CONGRESSIONAL COMMITTEES.—Not later than July 1, 1997, and July 1 of each of the two following years, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

''(1) the most recent report of the Center for Women Veterans under subsection (a);

''(2) the views of the Under Secretary for Health on such report's findings and recommendations; and

''(3) a description of the steps being taken by the Secretary to remedy any problems described in the report.''

§ 319. Office of Employment Discrimination Complaint Adjudication

(a)(1) There is in the Department an Office of Employment Discrimination Complaint Adjudication. There is at the head of the Office a Director.

(2) The Director shall be a career appointee in the Senior Executive Service.

(3) The Director reports directly to the Secretary or the Deputy Secretary concerning matters within the responsibility of the Office.

(b)(1) The Director is responsible for making the final agency decision within the Department on the merits of any employment discrimination complaint filed by an employee, or an applicant for employment, with the Department. The Director shall make such decisions in an impartial and objective manner.

(2) No person may make any ex parte communication to the Director or to any employee of the Office with respect to a matter on which the Director has responsibility for making a final agency decision.

(c) Whenever the Director has reason to believe that there has been retaliation against an employee by reason of the employee asserting rights under an equal employment opportunity law, the Director shall report the suspected retaliatory action directly to the Secretary or Deputy Secretary, who shall take appropriate action thereon.

(d)(1) The Office shall employ a sufficient number of attorneys and other personnel as are necessary to carry out the functions of the Office. Attorneys shall be compensated at a level commensurate with attorneys employed by the Office of the General Counsel.

(2) The Secretary shall ensure that the Director is furnished sufficient resources in addition to personnel under paragraph (1) to enable the Director to carry out the functions of the Office in a timely manner.

(3) The Secretary shall ensure that any performance appraisal of the Director of the Office of Employment Discrimination Complaint Adjudication or of any employee of the Office does not take into consideration the record of the Director or employee in deciding cases for or against the Department.

(Added Pub. L. 105–114, title I, § 102(a)(1), Nov. 21, 1997, 111 Stat. 2280.)

EFFECTIVE DATE

Section 102(c) of Pub. L. 105–114 provided that: ''Section 319 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act [Nov. 21, 1997].''

REPORTS ON IMPLEMENTATION

Section 102(b) of Pub. L. 105–114 provided that: ''The Director of the Office of Employment Discrimination Complaint Adjudication of the Department of Veterans Affairs (established by section 319 of title 38, United States Code, as added by subsection (a)) shall submit to the Secretary of Veterans Affairs and to Congress reports on the implementation and the operation of that office. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.''

§ 320. Department of Veterans Affairs-Department of Defense Joint Executive Committee

(a) JOINT EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee (hereinafter in this section referred to as the ''Committee'').

(2) The Committee is composed of—

(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

(b) ADMINISTRATIVE MATTERS.—(1) The Deputy Secretary of Veterans Affairs and the Under Secretary of Defense shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee.

(2) The two Departments shall supply appropriate staff and resources to provide administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a subordinate Health Executive Committee, a subordinate Benefits Executive Committee, and such other committees or working groups as considered necessary by the Deputy Secretary and Under Secretary.

(c) RECOMMENDATIONS.—(1) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under section 8111 of this title and shall oversee implementation of those efforts.

(2) The Committee shall submit to the two Secretaries and to Congress an annual report containing such recommendations as the Committee considers appropriate.

(d) FUNCTIONS.—In order to enable the Committee to make recommendations in its annual report under subsection (c)(2), the Committee shall do the following:

(1) Review existing policies, procedures, and practices relating to the coordination and sharing of resources between the two Departments.

(2) Identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of services and resources of the two Departments, with the goal of improving the quality, efficiency and effectiveness of the delivery of benefits and services to veterans, service members, military retirees, and their families through an enhanced Department of Veterans Affairs and Department of Defense partnership.

(3) Identify and assess further opportunities for the coordination and collaboration between the Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for benefits provided by either Department.

(4) Review the plans of both Departments for the acquisition of additional resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of resources.

(5) Review the implementation of activities designed to promote the coordination and sharing of resources between the Departments.

(Added Pub. L. 108–136, div. A, title V, § 583(a)(1), Nov. 24, 2003, 117 Stat. 1490.)

EFFECTIVE DATE

Pub. L. 108–136, div. A, title V, § 583(d)(2), Nov. 24, 2003, 117 Stat. 1492, provided that: ''If this Act is enacted on or after October 1, 2003, the amendments made by this section [enacting this section and amending section 8111 of this title] shall take effect on the date of the enactment of this Act [Nov. 24, 2003].''

JOINT PROGRAM FOR DEVELOPMENT AND EVALUATION OF INTEGRATED HEALING CARE PRACTICES FOR MEMBERS OF THE ARMED FORCES AND VETERANS

Pub. L. 108–136, div. A, title VII, § 727, Nov. 24, 2003, 117 Stat. 1537, provided that:

''(a) PROGRAM.—The Secretary of Defense and the Secretary of Veterans Affairs may conduct a program to develop and evaluate integrated healing care practices for members of the Armed Forces and veterans. Any such program shall be carried out through the Department of Veterans Affairs-Department of Defense Joint Executive Committee established under section 320 of title 38, United States Code.

''(b) SOURCE OF DOD FUNDS.—Amounts authorized to be appropriated by this Act [see Tables for classification] for the Defense Health Program may be used for the program under subsection (a).''

CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

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AMENDMENTS

1998—Pub. L. 105–368, title IX, § 906(b), title X, § 1001(a)(2), Nov. 11, 1998, 112 Stat. 3362, 3363, added items 530 and 531.

1997—Pub. L. 105–114, title I, § 101(a)(2), Nov. 21, 1997, 111 Stat. 2279, added item 516.

1996—Pub. L. 104–262, title III, § 333(a)(2), Oct. 9, 1996, 110 Stat. 3200, added item 545.

1994—Pub. L. 103–446, title V, § 510(b), Nov. 2, 1994, 108 Stat. 4670, added item 544.

1992—Pub. L. 102–405, title I, § 105(b)(2), Oct. 9, 1992, 106 Stat. 1976, added item 543.

SUBCHAPTER I—GENERAL AUTHORITIES

§ 501. Rules and regulations

(a) The Secretary has authority to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department and are consistent with those laws, including—

(1) regulations with respect to the nature and extent of proof and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws;

(2) the forms of application by claimants under such laws;

(3) the methods of making investigations and medical examinations; and

(4) the manner and form of adjudications and awards.

(b) Any rule, regulation, guideline, or other published interpretation or order (and any amendment thereto) issued pursuant to the authority granted by this section or any other provision of this title shall contain citations to the particular section or sections of statutory law or other legal authority upon which such issuance is based. The citation to the authority shall appear immediately following each substantive provision of the issuance.

(c) In applying section 552(a)(1) of title 5 to the Department, the Secretary shall ensure that subparagraphs (C), (D), and (E) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

(d) The provisions of section 553 of title 5 shall apply, without regard to subsection (a)(2) of that section, to matters relating to loans, grants, or benefits under a law administered by the Secretary.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 386.)

PRIOR PROVISIONS

Prior section 501 was renumbered section 1501 of this title.

Provisions similar to those in this section were contained in sections 210(c)(1) and 223(a), (b) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 502. Judicial review of rules and regulations

An action of the Secretary to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revi-

sion of the schedule of ratings for disabilities adopted under section 1155 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5 and may be sought only in the United States Court of Appeals for the Federal Circuit. However, if such review is sought in connection with an appeal brought under the provisions of chapter 72 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 386.)

PRIOR PROVISIONS

Prior section 502 was renumbered section 1502 of this title.

Provisions similar to those in this section were contained in section 223(c) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 503. Administrative error; equitable relief

(a) If the Secretary determines that benefits administered by the Department have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, the Secretary may provide such relief on account of such error as the Secretary determines equitable, including the payment of moneys to any person whom the Secretary determines is equitably entitled to such moneys.

(b) If the Secretary determines that a veteran, surviving spouse, child of a veteran, or other person has suffered loss as a consequence of reliance upon a determination by the Department of eligibility or entitlement to benefits, without knowledge that it was erroneously made, the Secretary may provide such relief on account of such error as the Secretary determines is equitable, including the payment of moneys to any person whom the Secretary determines is equitably entitled to such moneys.

(c) Not later than April 1 of each year, the Secretary shall submit to Congress a report containing a statement as to the disposition of each case recommended to the Secretary for equitable relief under this section during the preceding calendar year. No report shall be required under this subsection after December 31, 2004.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 386; amended Pub. L. 106–419, title IV, § 403(c)(1), Nov. 1, 2000, 114 Stat. 1864.)

PRIOR PROVISIONS

Prior sections 503 and 504 were renumbered sections 1503 and 1504 of this title, respectively.

Provisions similar to those in this section were contained in section 210(c)(2), (3) of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–419 inserted at end ''No report shall be required under this subsection after December 31, 2004.''

§ 505. Opinions of Attorney General

The Secretary may require the opinion of the Attorney General on any question of law arising in the administration of the Department.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 387.)

PRIOR PROVISIONS

Prior sections 505 to 508 were renumbered sections 1505 to 1508 of this title, respectively.

Provisions similar to those in this section were contained in section 211(b) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 510. Authority to reorganize offices

(a) Except to the extent inconsistent with law, the Secretary may—

(1) consolidate, eliminate, abolish, or redistribute the functions of the Administrations, offices, facilities, or activities in the Department;

(2) create new Administrations, offices, facilities, or activities in the Department; and

(3) fix the functions of any such Administration, office, facility, or activity and the duties and powers of their respective executive heads.

(b) The Secretary may not in any fiscal year implement an administrative reorganization described in subsection (c) unless the Secretary first submits to the appropriate committees of the Congress a report containing a detailed plan and justification for the administrative reorganization. No action to carry out such reorganization may be taken after the submission of such report until the end of a 45-day period following the date of the submission of the report, not less than 30 days of which shall be days during which Congress shall have been in continuous session. For purposes of the preceding sentence, continuity of a session of Congress is broken only by adjournment sine die, and there shall be excluded from the computation of any period of continuity of session any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.

(c) An administrative reorganization described in this subsection is an administrative reorganization of a covered field office or facility that involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

(1) by 15 percent or more; or

(2) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 25 percent or more.

(d)(1) Not less than 30 days before the date on which the implementation of any administrative reorganization described in paragraph (2) of a unit in the Central Office is to begin, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization.

(2) Paragraph (1) applies to an administrative reorganization of any unit of the Central Office that is the duty station for 30 or more employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit by 50 percent or more.

(e) For purposes of this section, the term ''administrative reorganization'' does not include a consolidation or redistribution of functions at a

covered field office or facility, or between components of the Veterans Benefits Administration and the Veterans Health Administration at a Department medical and regional office center, if after the consolidation or redistribution the same number of full-time equivalent employees continues to perform the affected functions at that field office, facility, or center.

(f) For purposes of this section:

(1) The term ''covered field office or facility'' means a Department office or facility outside the Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic.

(2) The term ''detailed plan and justification'' means, with respect to an administrative reorganization, a written report that, at a minimum, includes the following:

(A) Specification of the number of employees by which each covered office or facility affected is to be reduced, the responsibilities of those employees, and the means by which the reduction is to be accomplished.

(B) Identification of any existing or planned office or facility at which the number of employees is to be increased and specification of the number and responsibilities of the additional employees at each such office or facility.

(C) A description of the changes in the functions carried out at any existing office or facility and the functions to be assigned to an office or facility not in existence on the date that the plan and justification are submitted pursuant to subsection (b).

(D) An explanation of the reasons for the determination that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Department.

(E) A description of the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the Department not directly affected by the reorganization).

(F) Estimates of the costs of the reorganization and of the cost impact of the reorganization, together with analyses supporting those estimates.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 387; amended Pub. L. 104–262, title III, § 304, Oct. 9, 1996, 110 Stat. 3194.)

PRIOR PROVISIONS

Prior section 510, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1135, provided monthly pension for persons who served in military or naval forces of Confederate States of America, prior to repeal by Pub. L. 94–169, title I, § 101(2)(F), Dec. 23, 1975, 89 Stat. 1014, effective Jan. 1, 1976.

Provisions similar to those in this section were contained in section 210(b)(1), (2) of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–262 substituted ''a 45-day period following the date of the submission of the report, not less than 30 days of which shall be days during which Congress shall have been in continuous session'' for ''a 90-day period of continuous session of Congress following the date of the submission of the report'' in second sentence and ''any period of continuity of session'' for ''such 90-day period'' in third sentence.

AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO CARRY OUT SPECIFIED ADMINISTRATIVE REORGANIZATION

Pub. L. 102–54, § 12, June 13, 1991, 105 Stat. 273, provided that:

''(a) AUTHORITY FOR ADMINISTRATIVE REORGANIZATION.—The Secretary of Veterans Affairs may carry out the administrative reorganization described in subsection (b) without regard to section 210(b)(2) of title 38 [38 U.S.C. 510(b)–(f)], United States Code.

''(b) SPECIFIED REORGANIZATION.—Subsection (a) applies to the organizational realignment of management responsibility for the Department of Veterans Affairs Data Processing Centers, together with the corresponding organizational realignment of associated Information Resources Management operational components and functions within the Department of Veterans Affairs central office, as such realignment was described in the detailed plan and justification submitted by the Secretary of Veterans Affairs in [sic] January 4, 1991, letters to the Chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives.''

INAPPLICABILITY OF RESTRICTIONS

Pub. L. 101–312, June 25, 1990, 104 Stat. 271, provided: ''That (a) the Secretary of Veterans Affairs may proceed with the administrative reorganization described in subsection (b) of this Act without regard to section 210(b) [see 303, 510, 711] of title 38, United States Code.

''(b) The administrative reorganization referred to in subsection (a) is the reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs as that reorganization and related activity are described in (1) letters dated January 22, 1990, and the detailed plan and justification enclosed therewith, submitted by the Secretary to the Committees on Veterans' Affairs of the Senate and the House of Representatives pursuant to such section 210(b) [see 303, 510, 711], and (2) letters dated April 17, 1990, submitted in supplementation thereof by the Secretary to such Committees.''

Section 15(b) of Pub. L. 100–527 provided that: ''Section 210(b) [see 303, 510, 711] of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization—

''(1) is necessary in order to carry out the provisions of or amendments made by this Act [see Tables for classification]; and

''(2) is initiated within 6 months after the effective date of this Act [Mar. 15, 1989].''

§ 511. Decisions of the Secretary; finality

(a) The Secretary shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans. Subject to subsection (b), the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

(b) The second sentence of subsection (a) does not apply to—

(1) matters subject to section 502 of this title;

(2) matters covered by sections 1975 and 1984 of this title;

(3) matters arising under chapter 37 of this title; and

(4) matters covered by chapter 72 of this title.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 388.)

PRIOR PROVISIONS

Prior section 511 was renumbered section 1511 of this title.

Provisions similar to those in this section were contained in section 211(a) of this title prior to repeal by Pub. L. 102–83, § 2(a).

FEDERAL RULES OF CIVIL PROCEDURE

Writ of mandamus abolished in United States district courts, but relief available by appropriate action or motion, see rule 81, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 512. Delegation of authority; assignment of functions and duties

(a) Except as otherwise provided by law, the Secretary may assign functions and duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Department, to such officers and employees as the Secretary may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Secretary.

(b) There shall be included on the technical and administrative staff of the Secretary such staff officers, experts, inspectors, and assistants (including legal assistants) as the Secretary may prescribe.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 389.)

PRIOR PROVISIONS

Prior section 512 was renumbered section 1512 of this title.

Provisions similar to those in this section were contained in section 212 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 513. Contracts and personal services

The Secretary may, for purposes of all laws administered by the Department, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as the Secretary may consider practicable. The Secretary may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in the Secretary's judgment, such arrangements are in the interest of efficiency or economy.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 389.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 213 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 515. Administrative settlement of tort claims

(a)(1) Notwithstanding the limitations contained in section 2672 of title 28, the Secretary may settle a claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 7316 of this title to the extent the authority to do so is delegated to the Secretary by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

(2) For purposes of this subsection, the term ''settle'', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.

(b) The Secretary may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, when such claims arise in foreign countries in connection with Department operations abroad. A claim may not be allowed under this subsection unless it is presented in writing to the Secretary within two years after the claim accrues.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 389.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 224 and 236 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 516. Equal employment responsibilities

(a) The Secretary shall provide that the employment discrimination complaint resolution system within the Department be established and administered so as to encourage timely and fair resolution of concerns and complaints. The Secretary shall take steps to ensure that the system is administered in an objective, fair, and effective manner and in a manner that is perceived by employees and other interested parties as being objective, fair, and effective.

(b) The Secretary shall provide—

(1) that employees responsible for counseling functions associated with employment discrimination and for receiving, investigating, and processing complaints of employment discrimination shall be supervised in those functions by, and report to, an Assistant Secretary or a Deputy Assistant Secretary for complaint resolution management; and

(2) that employees performing employment discrimination complaint resolution functions at a facility of the Department shall not be subject to the authority, direction, and control of the Director of the facility with respect to those functions.

(c) The Secretary shall ensure that all employees of the Department receive adequate education and training for the purposes of this section and section 319 of this title.

(d) The Secretary shall, when appropriate, impose disciplinary measures, as authorized by law, in the case of employees of the Department who engage in unlawful employment discrimination, including retaliation against an employee asserting rights under an equal employment opportunity law.

(e)(1)(A) Not later than 45 days after the end of each calendar quarter, the Assistant Secretary for Human Resources and Administration shall

submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) during such quarter.

(B) Subparagraph (A) shall apply in the case of complaints filed against individuals on the basis of such individuals' personal conduct and shall not apply in the case of complaints filed solely on the basis of such individuals' positions as officials of the Department.

(2) Paragraph (1) applies to the following officers and employees of the Department:

(A) The Secretary.

(B) The Deputy Secretary of Veterans Affairs.

(C) The Under Secretary for Health and the Under Secretary for Benefits.

(D) Each Assistant Secretary of Veterans Affairs and each Deputy Assistant Secretary of Veterans Affairs.

(E) The Under Secretary of Veterans Affairs for Memorial Affairs.

(F) The General Counsel of the Department.

(G) The Chairman of the Board of Veterans' Appeals.

(H) The Chairman of the Board of Contract Appeals of the Department.

(I) The director and the chief of staff of each medical center of the Department.

(J) The director of each Veterans Integrated Services Network.

(K) The director of each regional office of the Department.

(L) Each program director of the Central Office of the Department.

(3) Each report under this subsection—

(A) may not disclose information which identifies the individuals filing, or the individuals who are the subject of, the complaints concerned or the facilities at which the discrimination identified in such complaints is alleged to have occurred;

(B) shall summarize such complaints by type and by equal employment opportunity field office area in which filed; and

(C) shall include copies of such complaints, with the information described in subparagraph (A) redacted.

(4) Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) a report on the complaints covered by paragraph (1) during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.

(f) The Secretary shall ensure that an employee of the Department who seeks counseling relating to employment discrimination may elect to receive such counseling from an employee of the Department who carries out equal employment opportunity counseling functions on a full-time basis rather than from an employee of the Department who carries out such functions on a part-time basis.

(g) The number of employees of the Department whose duties include equal employment opportunity counseling functions as well as other, unrelated functions may not exceed 40 full-time equivalent employees. Any such employee may be assigned equal employment opportunity counseling functions only at Department facilities in remote geographic locations (as determined by the Secretary). The Secretary may waive the limitation in the preceding sentence in specific cases.

(h) The provisions of this section shall be implemented in a manner consistent with procedures applicable under regulations prescribed by the Equal Employment Opportunity Commission.

(Added Pub. L. 105–114, title I, §101(a)(1), Nov. 21, 1997, 111 Stat. 2278; amended Pub. L. 105–368, title IV, §403(d)(2), Nov. 11, 1998, 112 Stat. 3339; Pub. L. 108–170, title IV, §405(a), Dec. 6, 2003, 117 Stat. 2063.)

AMENDMENTS

2003—Subsec. (e)(1)(A). Pub. L. 108–170 substituted ''45 days'' for ''30 days''.

1998—Subsec. (e)(2)(E). Pub. L. 105–368 substituted ''Under Secretary of Veterans Affairs for Memorial Affairs'' for ''Director of the National Cemetery System''.

EFFECTIVE DATE

Section 101(c) of Pub. L. 105–114 provided that: ''Section 516 of title 38, United States Code, as added by subsection (a), shall take effect 90 days after the date of enactment of this Act [Nov. 21, 1997]. Subsection (e) of that section shall take effect with respect to the first quarter of calendar year 1998.''

REPORTS ON IMPLEMENTATION AND OPERATION OF EQUAL EMPLOYMENT OPPORTUNITY SYSTEM

Section 101(b) of Pub. L. 105–114 provided that:

''(1) The Secretary of Veterans Affairs shall submit to Congress reports on the implementation and operation of the equal employment opportunity system within the Department of Veterans Affairs. The first such report shall be submitted not later than April 1, 1998, and subsequent reports shall be submitted not later than January 1, 1999, and January 1, 2000.

''(2) The first report under paragraph (1) shall set forth the actions taken by the Secretary to implement section 516 of title 38, United States Code, as added by subsection (a), and other actions taken by the Secretary in relation to the equal employment opportunity system within the Department of Veterans Affairs.

''(3) The subsequent reports under paragraph (1) shall set forth, for each equal employment opportunity field office of the Department and for the Department as a whole, the following:

''(A) Any information to supplement the information submitted in the report under paragraph (2) that the Secretary considers appropriate.

''(B) The number of requests for counseling relating to employment discrimination received during the one-year period ending on the date of the report concerned.

''(C) The number of employment discrimination complaints received during such period.

''(D) The status of each complaint described in subparagraph (C), including whether or not the complaint was resolved and, if resolved, whether the employee concerned sought review of the resolution by the Equal Employment Opportunity Commission or by Federal court.

''(E) The number of employment discrimination complaints that were settled during such period, including—

''(i) the type of such complaints; and

''(ii) the terms of settlement (including any settlement amount) of each such complaint.''

ASSESSMENT AND REVIEW OF EMPLOYMENT DISCRIMINATION COMPLAINT RESOLUTION SYSTEM

Section 103 of Pub. L. 105–114 provided that:

''(a) AGREEMENT FOR ASSESSMENT AND REVIEW.—(1) The Secretary of Veterans Affairs shall seek to enter into an agreement with a qualified private entity under which agreement the entity shall carry out the assessment described in subsection (b) and the review described in subsection (c).

''(2) The Secretary shall include in the agreement provisions necessary to ensure that the entity carries out its responsibilities under the agreement (including the exercise of its judgments concerning the assessment and review) in a manner free of influence from any source, including the officials and employees of the Department of Veterans Affairs.

''(3) The Secretary may not enter into the agreement until 15 days after the date on which the Secretary notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the entity with which the Secretary proposes to enter into the agreement.

''(b) INITIAL ASSESSMENT OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall conduct an assessment of the employment discrimination complaint resolution system administered within the Department of Veterans Affairs, including the extent to which the system meets the objectives set forth in section 516(a) of title 38, United States Code, as added by section 101. The assessment shall include a comprehensive description of the system as of the time of the assessment.

''(2) Under the agreement, the entity shall submit the assessment to the committees referred to in subsection (a)(3) and to the Secretary not later than June 1, 1998.

''(c) REVIEW OF ADMINISTRATION OF SYSTEM.—(1) Under the agreement under subsection (a), the entity shall monitor and review the administration by the Secretary of the employment discrimination complaint resolution system administered within the Department.

''(2) Under the agreement, the entity shall submit to the committees referred to in subsection (a)(3) and to the Secretary a report on the results of the review under paragraph (1) not later than June 1, 1999. The report shall include an assessment of the administration of the system, including the extent to which the system meets the objectives referred to in subsection (b)(1), and the effectiveness of the following:

''(A) Programs to train and maintain a cadre of individuals who are competent to investigate claims relating to employment discrimination.

''(B) Programs to train and maintain a cadre of individuals who are competent to provide counseling to individuals who submit such claims.

''(C) Programs to provide education and training to Department employees regarding their rights and obligations under the equal employment opportunity laws.

''(D) Programs to oversee the administration of the system.

''(E) Programs to evaluate the effectiveness of the system in meeting its objectives.

''(F) Other programs, procedures, or activities of the Department relating to the equal employment opportunity laws, including any alternative dispute resolution procedures and informal dispute resolution and settlement procedures.

''(G) Any disciplinary measures imposed by the Secretary on employees determined to have violated the equal employment opportunity laws in preventing or deterring violations of such laws by other employees of the Department.''

SUBCHAPTER II—SPECIFIED FUNCTIONS

§ 521. Assistance to certain rehabilitation activities

(a) The Secretary may assist any organization named in or approved under section 5902 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

(1) the activities are available to disabled veterans on a national basis; and

(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

(b) The Secretary may accept from any appropriate source contributions of funds and of other assistance to support the Secretary's provision of assistance for such activities.

(c)(1) Subject to paragraph (2), the Secretary may authorize the use, for purposes approved by the Secretary in connection with the activity involved, of the seal and other official symbols of the Department and the name ''Department of Veterans Affairs'' by—

(A) any organization which provides an activity described in subsection (a) with assistance from the Secretary; and

(B) any individual or entity from which the Secretary accepts a significant contribution under subsection (b) or an offer of such a contribution.

(2) The use of such seal or name of any official symbol of the Department in an advertisement may be authorized by the Secretary under this subsection only if—

(A) the Secretary has approved the advertisement; and

(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Department of Veterans Affairs.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 390.)

PRIOR PROVISIONS

Prior section 521 was renumbered section 1521 of this title.

Provisions similar to those in this section were contained in section 216 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 522. Studies of rehabilitation of disabled persons

(a) The Secretary may conduct studies and investigations, and prepare reports, relative to the rehabilitation of disabled persons, the relative abilities, aptitudes, and capacities of the several groups of the variously handicapped, and how their potentialities can best be developed and their services best used in gainful and suitable employment including the rehabilitation programs of foreign nations.

(b) In carrying out this section, the Secretary (1) may cooperate with such public and private agencies as the Secretary considers advisable; and (2) may employ consultants who shall receive a reasonable per diem, as prescribed by the Secretary, for each day actually employed, plus necessary travel and other expenses.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 390.)

PRIOR PROVISIONS

Prior section 522 was renumbered section 1522 of this title.

Provisions similar to those in this section were contained in section 217 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 523. Coordination and promotion of other programs affecting veterans and their dependents

(a) The Secretary shall seek to achieve (1) the maximum feasible effectiveness, coordination, and interrelationship of services among all programs and activities affecting veterans and their dependents carried out by and under all other departments, agencies, and instrumentalities of the executive branch, and (2) the maximum feasible coordination of such programs with programs carried out under this title. The Secretary shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference for veterans.

(b) The Secretary shall seek to achieve the effective coordination of the provision, under laws administered by the Department, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Secretary shall place special emphasis on veterans who are 65 years of age or older.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 390.)

PRIOR PROVISIONS

Prior sections 523 and 524 were renumbered sections 1523 and 1524 of this title, respectively.

Provisions similar to those in this section were contained in section 220 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 525. Publication of laws relating to veterans

(a) The Secretary may compile and publish all Federal laws relating to veterans' relief, including laws administered by the Department as well as by other agencies of the Government. Such compilation and publication shall be in such form as the Secretary considers advisable for the purpose of making currently available in convenient form for the use of the Department and full-time representatives of the several service organizations an annotated, indexed, and cross-referenced statement of the laws providing veterans' relief.

(b) The Secretary may maintain such compilation on a current basis either by the publication, from time to time, of supplementary documents or by complete revision of the compilation.

(c) The distribution of the compilation to the representatives of the several service organizations shall be as determined by the Secretary.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 391.)

PRIOR PROVISIONS

Prior section 525 was renumbered section 1525 of this title.

Provisions similar to those in this section were contained in section 215 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 527. Evaluation and data collection

(a) The Secretary, pursuant to general standards which the Secretary shall prescribe in regulations, shall measure and evaluate on a continuing basis the effect of all programs authorized under this title, in order to determine their effectiveness in achieving stated goals in general, and in achieving such goals in relation to their cost, their effect on related programs, and their structure and mechanisms for delivery of services. Such information as the Secretary may consider necessary for purposes of such evaluations shall be made available to the Secretary, upon request, by all departments, agencies, and instrumentalities of the executive branch.

(b) In carrying out this section, the Secretary shall collect, collate, and analyze on a continuing basis full statistical data regarding participation (including the duration thereof), provision of services, categories of beneficiaries, planning and construction of facilities, acquisition of real property, proposed excessing of land, accretion and attrition of personnel, and categorized expenditures attributable thereto, under all programs carried out under this title.

(c) The Secretary shall make available to the public, and on a regular basis provide to the appropriate committees of the Congress, copies of all completed evaluative research studies and summaries of evaluations of program impact and effectiveness carried out, and tabulations and analyses of all data collected, under this section.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 391.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 219 of this title prior to repeal by Pub. L. 102–83, § 2(a).

PERSIAN GULF WAR VETERANS' HEALTH STATUS

Pub. L. 102–585, title VII, Nov. 4, 1992, 106 Stat. 4975, as amended by Pub. L. 103–446, title I, § 108, Nov. 2, 1994, 108 Stat. 4653; Pub. L. 105–368, title I, §§ 104, 106, Nov. 11, 1998, 112 Stat. 3323, 3325, provided that:

''SEC. 701. SHORT TITLE.

''This title may be cited as the 'Persian Gulf War Veterans' Health Status Act'.

''SEC. 702. PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

''(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Veterans Affairs shall establish and maintain a special record to be known as the 'Persian Gulf War Veterans Health Registry' (in this section referred to as the 'Registry').

''(b) CONTENTS OF REGISTRY.—Except as provided in subsection (c), the Registry shall include the following information:

''(1) A list containing the name of each individual who served as a member of the Armed Forces in the Persian Gulf theater of operations during the Persian Gulf War and who—

''(A) applies for care or services from the Department of Veterans Affairs under chapter 17 of title 38, United States Code;

''(B) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service;

''(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of such service;

''(D) requests from the Department a health examination under section 703; or

''(E) receives from the Department of Defense a health examination similar to the health examina-

tion referred to in subparagraph (D) and requests inclusion in the Registry.

''(2) Relevant medical data relating to the health status of, and other information that the Secretary considers relevant and appropriate with respect to, each individual described in paragraph (1) who—

''(A) grants to the Secretary permission to include such information in the Registry; or

''(B) at the time the individual is listed in the Registry, is deceased.

''(c) INDIVIDUALS SUBMITTING CLAIMS OR MAKING REQUESTS BEFORE DATE OF ENACTMENT.—If in the case of an individual described in subsection (b)(1) the application, claim, or request referred to in such subsection was submitted, filed, or made, before the date of the enactment of this Act [Nov. 4, 1992], the Secretary shall, to the extent feasible, include in the Registry such individual's name and the data and information, if any, described in subsection (b)(2) relating to the individual.

''(d) DEPARTMENT OF DEFENSE INFORMATION.—The Secretary of Defense shall furnish to the Secretary of Veterans Affairs such information maintained by the Department of Defense as the Secretary of Veterans Affairs considers necessary to establish and maintain the Registry.

''(e) RELATION TO DEPARTMENT OF DEFENSE REGISTRY.—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that information is collected and maintained in the Registry in a manner that permits effective and efficient cross-reference between the Registry and the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

''(f) ONGOING OUTREACH TO INDIVIDUALS LISTED IN REGISTRY.—The Secretary of Veterans Affairs shall, from time to time, notify individuals listed in the Registry of significant developments in research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

''SEC. 703. HEALTH EXAMINATIONS AND COUNSELING FOR VETERANS ELIGIBLE FOR INCLUSION IN CERTAIN HEALTH-RELATED REGISTRIES.

''(a) IN GENERAL.—(1) The Secretary of Veterans Affairs—

''(A) shall, upon the request of a veteran described in subsection (b)(1), provide the veteran with a health examination (including any appropriate diagnostic tests) and consultation and counseling with respect to the results of the examination and the tests; and

''(B) may, upon the request of a veteran described in subsection (b)(2), provide the veteran with such an examination (including diagnostic tests) and such consultation and counseling.

''(2) The Secretary shall carry out appropriate outreach activities with respect to the provision of any health examinations (including any diagnostic tests) and consultation and counseling services under paragraph (1).

''(b) COVERED VETERANS.—(1) In accordance with subsection (a)(1)(A), the Secretary shall provide an examination (including diagnostic tests), consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in the Persian Gulf War Veterans Health Registry established by section 702.

''(2) In accordance with subsection (a)(1)(B), the Secretary may provide an examination (including diagnostic tests), consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in any other similar health-related registry administered by the Secretary.

''SEC. 704. EXPANSION OF COVERAGE OF PERSIAN GULF REGISTRY.

''[Amended section 734 of Pub. L. 102–190, set out as a note under section 1074 of Title 10, Armed Forces.]

''SEC. 705. STUDY BY OFFICE OF TECHNOLOGY ASSESSMENT OF PERSIAN GULF REGISTRY AND PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

''(a) STUDY.—The Director of the Office of Technology Assessment shall, in a manner consistent with the Technology Assessment Act of 1972 (2 U.S.C. 472(d) [2 U.S.C. 471 et seq.]), assess—

''(1) the potential utility of each of the Persian Gulf Registry and the Persian Gulf War Veterans Health Registry for scientific study and assessment of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War;

''(2) the extent to which each registry meets the requirements of the provisions of law under which the registry is established;

''(3) the extent to which data contained in each registry—

''(A) are maintained in a manner that ensures permanent preservation and facilitates the effective, efficient retrieval of information that is potentially relevant to the scientific study of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War; and

''(B) would be useful for scientific study regarding such health consequences;

''(4) the adequacy of any plans to update each of the registries;

''(5) the extent to which the Department of Defense or the Department of Veterans Affairs, as the case may be, is assembling and maintaining information on the Persian Gulf theater of operations (including information on troop locations and atmospheric and weather conditions) in a manner that facilitates the usefulness of, maintenance of, and retrieval of information from, the applicable registry; and

''(6) the adequacy and compatibility of protocols for the health examinations and counseling provided under section 703 and health examinations provided by the Department of Defense to members of the Armed Forces for the purpose of assessing the health status of members of the Armed Forces who served in the Persian Gulf theater of operations during the Persian Gulf War.

''(b) ACCESS TO INFORMATION.—The Secretary of Veterans Affairs and the Secretary of Defense shall provide the Director with access to such records and information under the jurisdiction of each such secretary as the Director determines necessary to permit the Director to carry out the study required under this section.

''(c) REPORTS.—The Director shall—

''(1) not later than 270 days after the date of the enactment of this Act [Nov. 4, 1992], submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf Registry and health-examination protocols; and

''(2) not later than 15 months after such date, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf War Veterans Health Registry.

''(d) DEFINITIONS.—For the purposes of this section:

''(1) The term 'Persian Gulf Registry' means the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

''(2) The term 'Persian Gulf War Veterans Health Registry' means the Persian Gulf War Veterans Health Registry established under section 702.

''SEC. 706. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES FOR REVIEW OF HEALTH CONSEQUENCES OF SERVICE DURING THE PERSIAN GULF WAR.

''(a) AGREEMENT.—(1) The Secretary of Veterans Affairs and Secretary of Defense jointly shall seek to enter into an agreement with the National Academy of Sciences for the Medical Follow-Up Agency (MFUA) of

the Institute of Medicine of the Academy to review existing scientific, medical, and other information on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

''(2) The agreement shall require MFUA to provide members of veterans organizations and members of the scientific community (including the Director of the Office of Technology Assessment) with the opportunity to comment on the method or methods MFUA proposes to use in conducting the review.

''(3) The agreement shall permit MFUA, in conducting the review, to examine and evaluate medical records of individuals who are included in the registries referred to in section 705(d) for purposes that MFUA considers appropriate, including the purpose of identifying illnesses of those individuals.

''(4) The Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into the agreement under this section not later than 180 days after the date of the enactment of this Act [Nov. 4, 1992].

''(b) REPORT.—(1) The agreement under this section shall require the National Academy of Sciences to submit to the committees and secretaries referred to in paragraph (2) a report on the results of the review carried out under the agreement. Such report shall contain the following:

''(A) An assessment of the effectiveness of actions taken by the Secretary of Veterans Affairs and the Secretary of Defense to collect and maintain information that is potentially useful for assessing the health consequences of the military service referred to in subsection (a).

''(B) Recommendations on means of improving the collection and maintenance of such information.

''(C) Recommendations on whether there is sound scientific basis for an epidemiological study or studies on the health consequences of such service, and if the recommendation is that there is sound scientific basis for such a study or studies, the nature of the study or studies.

''(2) The committees and secretaries referred to in paragraph (1) are the following:

''(A) The Committees on Veterans' Affairs of the Senate and House of Representatives.

''(B) The Committees on Armed Services of the Senate and House of Representatives.

''(C) The Secretary of Veterans Affairs.

''(D) The Secretary of Defense.

''(c) FUNDING.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall make available up to a total of $500,000 in fiscal year 1993, from funds available to the Department of Veterans Affairs and the Department of Defense in that fiscal year, to carry out the review. Any amounts provided by the two departments shall be provided in equal amounts.

''(2) If the Secretary of Veterans Affairs and the Secretary of Defense enter into an agreement under subsection (a) with the National Academy of Sciences—

''(A) the Secretary of Veterans Affairs shall make available $250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Veterans Affairs in each such fiscal year, to the National Academy of Sciences for the general purposes of conducting epidemiological research with respect to military and veterans populations; and

''(B) the Secretary of Defense shall make available $250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Defense in each such fiscal year, to the National Academy of Sciences for the purposes of carrying out the research referred to in subparagraph (A).

''(d) RESEARCH REVIEW AND DEVELOPMENT OF MEDICAL EDUCATION CURRICULUM.—(1) In order to further understand the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War and of new research findings with implications for improving the provision of care for veterans of such service, the Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences under which the Institute of Medicine of the Academy would—

''(A) develop a curriculum pertaining to the care and treatment of veterans of such service who have ill-defined or undiagnosed illnesses for use in the continuing medical education of both general and specialty physicians who provide care for such veterans; and

''(B) on an ongoing basis, periodically review and provide recommendations regarding the research plans and research strategies of the Departments relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

''(2) Recommendations to be provided under paragraph (1)(B) include any recommendations that the Academy considers appropriate for additional scientific studies (including studies related to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of any aspects of such military service. In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

''(3) Not later than 9 months after the Institute of Medicine provides the Secretaries the curriculum developed under paragraph (1)(A), the Secretaries shall provide for the conduct of continuing education programs using that curriculum. Those programs shall include instruction which seeks to emphasize use of appropriate protocols of diagnosis, referral, and treatment of such veterans.

''SEC. 707. COORDINATION OF HEALTH-RELATED GOVERNMENT ACTIVITIES ON THE PERSIAN GULF WAR.

''(a) DESIGNATION OF COORDINATING ORGANIZATION.—The President shall designate, and may redesignate from time to time, the head of an appropriate department or agency of the Federal Government to coordinate all activities undertaken or funded by the Executive Branch of the Federal Government on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

''(b) PUBLIC ADVISORY COMMITTEE.—Not later than January 1, 1999, the head of the department or agency designated under subsection (a) shall establish an advisory committee consisting of members of the general public, including Persian Gulf War veterans and representatives of such veterans, to provide advice to the head of that department or agency on proposed research studies, research plans, or research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Persian Gulf War. The department or agency head shall consult with such advisory committee on a regular basis.

''(c) REPORTS.—(1) Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on—

''(A) the status and results of all such research activities undertaken by the executive branch during the previous year; and

''(B) research priorities identified during that year.

''(2)(A) Not later than 120 days after submission of the epidemiological research study conducted by the Department of Veterans Affairs entitled 'VA National Survey of Persian Gulf Veterans—Phase III', the head of the department or agency designated under subsection (a) shall submit to the congressional committees specified in paragraph (1) a report on the findings under that study and any other pertinent medical literature.

''(B) With respect to any findings of that study and any other pertinent medical literature which identify scientific evidence of a greater relative risk of illness or illnesses in family members of veterans who served

in the Persian Gulf War theater of operations than in family members of veterans who did not so serve, the head of the department or agency designated under subsection (a) shall seek to ensure that appropriate research studies are designed to follow up on such findings.

''(d) PUBLIC AVAILABILITY OF RESEARCH FINDINGS.—The head of the department or agency designated under subsection (a) shall ensure that the findings of all research conducted by or for the executive branch relating to the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War (including information pertinent to improving provision of care for veterans of such service) are made available to the public through peer-reviewed medical journals, the World Wide Web, and other appropriate media.

''(e) OUTREACH.—The head of the department or agency designated under subsection (a) shall ensure that the appropriate departments consult and coordinate in carrying out an ongoing program to provide information to those who served in the Southwest Asia theater of operations during the Persian Gulf War relating to: (1) the health risks, if any, resulting from any risk factors associated with such service; and (2) any services or benefits available with respect to such health risks.

''SEC. 708. DEFINITION.

''For the purposes of this title, the term 'Persian Gulf War' has the meaning given such term in section 101(33) of title 38, United States Code.''

SERVICES FOR HOMELESS VETERANS

Pub. L. 102–405, title I, § 107, Oct. 9, 1992, 106 Stat. 1976, as amended by Pub. L. 103–446, title X, § 1002, Nov. 2, 1994, 108 Stat. 4679, required Secretary of Veterans' Affairs and directors of each medical center or benefits office to assess needs of homeless veterans and programs which have been developed to assist homeless veterans, and to replicate programs which have successfully rehabilitated homeless veterans, prior to repeal by Pub. L. 105–114, title II, § 202(c)(2), Nov. 21, 1997, 111 Stat. 2287.

§ 529. Annual report to Congress

The Secretary shall submit annually, at the close of each fiscal year, a report in writing to Congress. Each such report shall—

(1) give an account of all moneys received and disbursed by the Department for such fiscal year;

(2) describe the work done during such fiscal year; and

(3) state the activities of the Department for such fiscal year.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 391.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 214 of this title prior to repeal by Pub. L. 102–83, § 2(a).

Prior section 531, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 90–77, title I, § 105, Aug. 31, 1967, 81 Stat. 179, provided for a monthly pension to widows of Mexican War veterans, prior to repeal by Pub. L. 94–169, title I, § 101(2)(F), Dec. 23, 1975, 89 Stat. 1014, effective Jan. 1, 1976.

Prior sections 532 to 537 were renumbered sections 1532 to 1537 of this title, respectively.

§ 530. Annual report on program and expenditures for domestic response to weapons of mass destruction

(a) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, to be submitted each year at the time that the President submits the budget for the next fiscal year under section 1105 of title 31, on the activities of the Department relating to preparation for, and participation in, a domestic medical response to an attack involving weapons of mass destruction.

(b) Each report under subsection (a) shall include the following:

(1) A statement of the amounts of funds and the level of personnel resources (stated in terms of full-time equivalent employees) expected to be used by the Department during the next fiscal year in preparation for a domestic medical response to an attack involving weapons of mass destruction, including the anticipated source of those funds and any anticipated shortfalls in funds or personnel resources to achieve the tasks assigned the Department by the President in connection with preparation for such a response.

(2) A detailed statement of the funds expended and personnel resources (stated in terms of full-time equivalent employees) used during the fiscal year preceding the fiscal year during which the report is submitted in preparation for a domestic medical response to an attack involving weapons of mass destruction or in response to such an attack, including identification of the source of those funds and a description of how those funds were expended.

(3) A detailed statement of the funds expended and expected to be expended, and the personnel resources (stated in terms of full-time equivalent employees) used and expected to be used, during the fiscal year during which the report is submitted in preparation for a domestic medical response to an attack involving weapons of mass destruction or in response to such an attack, including identification of the source of funds expended and a description of how those funds were expended.

(c) This section shall expire on January 1, 2009.

(Added Pub. L. 105–368, title IX, § 906(a), Nov. 11, 1998, 112 Stat. 3361.)

§ 531. Requirement relating to naming of Department property

Except as expressly provided by law, a facility, structure, or real property of the Department, and a major portion (such as a wing or floor) of any such facility, structure, or real property, may be named only for the geographic area in which the facility, structure, or real property is located.

(Added Pub. L. 105–368, title X, § 1001(a)(1), Nov. 11, 1998, 112 Stat. 3363.)

EFFECTIVE DATE

Pub. L. 105–368, title X, § 1001(b), Nov. 11, 1998, 112 Stat. 3363, provided that: ''Section 531 of title 38, United States Code, as added by subsection (a)(1), shall apply with respect to the assignment or designation of the name of a facility, structure, or real property of the Department of Veterans Affairs (or of a major portion thereof) after the date of the enactment of this Act [Nov. 11, 1998].''

SUBCHAPTER III—ADVISORY COMMITTEES

§ 541. Advisory Committee on Former Prisoners of War

(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the ''Committee'').

(2)(A) The members of the Committee shall be appointed by the Secretary from the general public and shall include—

(i) appropriate representatives of veterans who are former prisoners of war;

(ii) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

(iii) appropriate representatives of disabled veterans.

(B) The Committee shall also include, as ex officio members, the Under Secretary for Health and the Under Secretary for Benefits, or their designees.

(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of service of any such member may not exceed three years.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

(c)(1) Not later than July 1 of each odd-numbered year through 2009, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are former prisoners of war. Each such report shall include—

(A) an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate.

(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted to the Congress pursuant to that section.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 392; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106–419, title IV, § 403(c)(2), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 108–454, title VIII, § 803, Dec. 10, 2004, 118 Stat. 3626.)

PRIOR PROVISIONS

Prior section 541 was renumbered section 1541 of this title.

Provisions similar to those in this section were contained in section 221 of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108–454 substituted ''2009'' for ''2003''.

2000—Subsec. (c)(1). Pub. L. 106–419 inserted ''through 2003'' after ''each odd-numbered year'' in introductory provisions.

1992—Subsec. (a)(2)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' and ''Under Secretary for Benefits'' for ''Chief Benefits Director''.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 542. Advisory Committee on Women Veterans

(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Women Veterans (hereinafter in this section referred to as ''the Committee'').

(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

(i) representatives of women veterans;

(ii) individuals who are recognized authorities in fields pertinent to the needs of women veterans, including the gender-specific healthcare needs of women; and

(iii) representatives of both female and male veterans with service-connected disabilities, including at least one female veteran with a service-connected disability and at least one male veteran with a service-connected disability.

(B) The Committee shall include, as ex officio members—

(i) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(ii) the Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense after consultation with the Defense Advisory Committee on Women in the Services); and

(iii) the Under Secretary for Health and the Under Secretary for Benefits, or their designees.

(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for women veterans, reports and studies pertaining to women veterans and the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department, including the Center for Women Veterans.

(c)(1) Not later than July 1 of each even-numbered year through 2004, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to women veterans. Each such report shall include—

(A) an assessment of the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 393; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–275, title V, § 501(e)(1), Oct. 9, 1996, 110 Stat. 3341; Pub. L. 106–419, title IV, § 403(c)(3), Nov. 1, 2000, 114 Stat. 1864.)

PRIOR PROVISIONS

Prior section 542 was renumbered section 1542 of this title.

Provisions similar to those in this section were contained in section 222 of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–419 inserted ''through 2004'' after ''each even-numbered year'' in introductory provisions.

1996—Subsec. (b). Pub. L. 104–275 inserted '', including the Center for Women Veterans'' before period at end.

1992—Subsec. (a)(2)(B)(iii). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' and ''Under Secretary for Benefits'' for ''Chief Benefits Director''.

CHANGE OF NAME

Reference to Assistant Secretary of Labor for Veterans' Employment in any law in force on Nov. 6, 1986, deemed to be a reference to Assistant Secretary of Labor for Veterans' Employment and Training, see section 2(b)(3) of Pub. L. 99–619, set out as a References in Other Laws note under section 553 of Title 29, Labor.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 543. Advisory Committee on Prosthetics and Special-Disabilities Programs

(a) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the ''Committee'').

(b) The objectives and scope of activities of the Committee shall relate to—

(1) prosthetics and special-disabilities programs administered by the Secretary;

(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

(d) Not later than January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

(e) As used in this section, the term ''special-disabilities programs'' includes all programs administered by the Secretary for—

(1) spinal-cord-injured veterans;

(2) blind veterans;

(3) veterans who have lost or lost the use of extremities;

(4) hearing-impaired veterans; and

(5) other veterans with serious incapacities in terms of daily life functions.

(Added Pub. L. 102–405, title I, § 105(b)(1), Oct. 9, 1992, 106 Stat. 1975.)

PRIOR PROVISIONS

Prior section 543 was renumbered section 1543 of this title.

CHANGE OF NAME

Section 105(a) of Pub. L. 102–405 provided that: ''The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act [Oct. 9, 1992] be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.''

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 544. Advisory Committee on Minority Veterans

(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as ''the Committee'').

(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

(i) representatives of veterans who are minority group members;

(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

(iii) veterans who are minority group members and who have experience in a military theater of operations; and

(iv) veterans who are minority group members and who do not have such experience.

(B) The Committee shall include, as ex officio members, the following:

(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department, including the Center for Minority Veterans.

(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

(d) In this section, the term ''minority group member'' means an individual who is—

(1) Asian American;

(2) Black;

(3) Hispanic;

(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

(5) Pacific-Islander American.

(e) The Committee shall cease to exist December 31, 2009.

(Added Pub. L. 103–446, title V, § 510(a), Nov. 2, 1994, 108 Stat. 4668; amended Pub. L. 104–275, title V, § 501(e)(2), (f), Oct. 9, 1996, 110 Stat. 3341; Pub.

L. 106–117, title VIII, § 803, Nov. 30, 1999, 113 Stat. 1586; Pub. L. 108–183, title VII, § 703, Dec. 16, 2003, 117 Stat. 2671.)

PRIOR PROVISIONS

Prior section 544, added Pub. L. 90–77, title I, § 108(a), Aug. 31, 1967, 81 Stat. 180; amended Pub. L. 91–588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 93–527, § 5, Dec. 21, 1974, 88 Stat. 1704; Pub. L. 94–169, title I, § 105, Dec. 23, 1975, 89 Stat. 1017; Pub. L. 94–432, title II, § 205, Sept. 30, 1976, 90 Stat. 1371; Pub. L. 95–204, title I, § 104, Dec. 2, 1977, 91 Stat. 1457, authorized an increase by $79 of the monthly rate of pension payable to the surviving spouse if the surviving spouse was entitled to pension under subchapter III of chapter 15 of this title and was in need of regular aid and attendance, prior to repeal by Pub. L. 95–588, title I, § 112(a)(1), title IV, § 401, Nov. 4, 1978, 92 Stat. 2505, 2511, effective Jan. 1, 1979.

Another prior section 544, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1139, authorized the payment of a pension to children of World War II or Korean conflict veterans, prior to the general amendment of subchapter III of chapter 15 of this title by Pub. L. 86–211, § 4, Aug. 29, 1950, 73 Stat. 434. See sections 1542 and 1543 of this title.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–183 substituted ''December 31, 2009'' for ''December 31, 2003''.

1999—Subsec. (e). Pub. L. 106–117 substituted ''December 31, 2003'' for ''December 31, 1999''.

1996—Subsec. (b). Pub. L. 104–275, § 501(e)(2), inserted '', including the Center for Minority Veterans'' before period at end.

Subsec. (e). Pub. L. 104–275, § 501(f), substituted ''December 31, 1999'' for ''December 31, 1997''.

§ 545. Advisory Committee on the Readjustment of Veterans

(a)(1) There is in the Department the Advisory Committee on the Readjustment of Veterans (hereinafter in this section referred to as the ''Committee'').

(2) The Committee shall consist of not more than 18 members appointed by the Secretary from among individuals who—

(A) have demonstrated significant civic or professional achievement; and

(B) have experience with the provision of veterans benefits and services by the Department.

(3) The Secretary shall seek to ensure that members appointed to the Committee include individuals from a wide variety of geographic areas and ethnic backgrounds, individuals from veterans service organizations, individuals with combat experience, and women.

(4) The Secretary shall determine the terms of service and pay and allowances of the members of the Committee, except that a term of service may not exceed two years. The Secretary may reappoint any member for additional terms of service.

(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to veterans in order to assist veterans in the readjustment to civilian life.

(2)(A) In providing advice to the Secretary under this subsection, the Committee shall—

(i) assemble and review information relating to the needs of veterans in readjusting to civilian life;

(ii) provide information relating to the nature and character of psychological problems arising from service in the Armed Forces;

(iii) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting veterans in readjusting to civilian life; and

(iv) provide on-going advice on the most appropriate means of responding to the readjustment needs of veterans in the future.

(B) In carrying out its duties under subparagraph (A), the Committee shall take into special account the needs of veterans who have served in a theater of combat operations.

(c)(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the readjustment of veterans to civilian life. Each such report shall include—

(A) an assessment of the needs of veterans with respect to readjustment to civilian life;

(B) a review of the programs and activities of the Department designed to meet such needs; and

(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

(d)(1) Except as provided in paragraph (2), the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the activities of the Committee under this section.

(2) Section 14 of such Act shall not apply to the Committee.

(Added Pub. L. 104–262, title III, § 333(a)(1), Oct. 9, 1996, 110 Stat. 3199; amended Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Prior section 545 of this title, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1139, authorized the payment of a pension to children of World War II or Korean conflict veterans and prescribed income limitations, prior to the general amendment of subchapter III of chapter 15 of this title by Pub. L. 86–211, § 4, Aug. 29, 1959, 73 Stat. 434. See section 1543 of this title.

Prior sections 560 to 562 were renumbered sections 1560 to 1562 of this title, respectively.

Prior sections 601 to 603 and 610 to 613 were renumbered sections 1701 to 1703 and 1710 to 1713 of this title, respectively.

Another prior section 613, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, related to fitting and training in use of prosthetic appliances, prior to repeal by section 103(b) of Pub. L. 93–82. See section 1714(a) of this title.

Prior sections 614 to 620C were renumbered sections 1714 to 1720C of this title, respectively.

Another prior section 620C, added Pub. L. 100–6, § 2(a), Feb. 12, 1987, 101 Stat. 92, related to community-based psychiatric residential treatment for chronically mentally ill veterans, prior to repeal by Pub. L. 100–322, title I, § 115(g)(1), May 20, 1988, 102 Stat. 502. See section 115(a)–(f) of Pub. L. 100–322, set out as a note under section 1712 of this title.

Prior sections 621 to 624 were renumbered sections 1721 to 1724 of this title, respectively.

Prior section 625, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144; Pub. L. 91–24, § 6(a), June 11, 1969, 83 Stat. 34, related to arrests for crimes in hospital and domiciliary reservations, prior to repeal by Pub. L. 93–43, §§ 4(b), 10(a), June 18, 1973, 87 Stat. 79, 88, effective June 18, 1973.

Prior sections 626 to 631 were renumbered sections 1726 to 1731 of this title, respectively.

Another prior section 631, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1145; Pub. L. 91–24, § 6(b), June 11, 1969, 83 Stat. 34, related to grants to the Republic of the Philippines, prior to repeal by section 107(a) of Pub. L. 93–82.

Prior section 632 was renumbered section 1732 of this title.

Another prior section 632, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146; Pub. L. 88–40, June 13, 1963, 77 Stat. 66; Pub. L. 89–612, § 2, Sept. 30, 1966, 80 Stat. 859; Pub. L. 91–24, § 6(c), June 11, 1969, 83 Stat. 34, related to modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948, prior to repeal by section 107(a) of Pub. L. 93–82.

Prior sections 633 to 635 and 641 to 643 were renumbered sections 1733 to 1735 and 1741 to 1743 of this title, respectively.

Prior section 644, added Pub. L. 91–178, § 2(a), Dec. 30, 1969, 83 Stat. 836; amended Pub. L. 93–82, title IV, § 403(b), Aug. 2, 1973, 87 Stat. 196, authorized appropriations to be used for making grants to States which had submitted and had approved applications for assistance in remodeling, modification, or alteration of existing hospital or domiciliary facilities in State homes providing care and treatment for veterans, prior to repeal by Pub. L. 95–62, §§ 2, 5, July 5, 1977, 91 Stat. 262, 263, effective Oct. 1, 1977, but with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under prior section 644 and with additional provision for the modification of the terms and conditions of both grants made under that section prior to Oct. 1, 1977, and of grants made under subchapter III of chapter 81 of this title prior to Oct. 1, 1977.

Prior sections 651 to 654 and 661 to 664 were renumbered sections 1751 to 1754 and 1761 to 1764 of this title, respectively.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

COMMISSION ON SERVICEMEMBERS AND VETERANS TRANSITION ASSISTANCE

Pub. L. 104–275, title VII, Oct. 9, 1996, 110 Stat. 3346, as amended by Pub. L. 105–368, title X, § 1005(c)(2), Nov. 11, 1998, 112 Stat. 3366, provided that:

''SEC. 701. ESTABLISHMENT OF COMMISSION.

''(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Servicemembers and Veterans Transition Assistance (hereafter in this title referred to as the 'Commission').

''(b) MEMBERSHIP.—(1) The Commission shall be composed of 12 members appointed from among private United States citizens with appropriate and diverse experiences, expertise, and historical perspectives on veterans, military, organizational, and management matters. The members shall be appointed as follows:

''(A) Four shall be appointed jointly by the chairman and ranking minority member of the Committee on Veterans' Affairs of the House of Representatives.

''(B) Four shall be appointed jointly by the chairman and ranking minority member of the Committee on Veterans' Affairs of the Senate.

''(C) Two shall be appointed jointly by the chairman and ranking minority member of the Committee on National Security of the House of Representatives [now Committee on Armed Services of the House of Representatives].

''(D) Two shall be appointed jointly by the chairman and ranking minority member of the Committee on Armed Services of the Senate.

''(2)(A) One member of the Commission appointed under each of subparagraphs (A) and (B) of paragraph (1) shall be a representative of a veterans service organization.

''(B) To the maximum extent practicable, the individuals appointed under paragraph (1) as members of the Commission shall be veterans.

''(C) Not more than seven of the members of the Commission may be members of the same political party.

''(3) In addition to the members appointed under paragraph (1), the following shall be nonvoting members of the Commission:

''(A) The Under Secretary for Benefits of the Department of Veterans Affairs.

''(B) The Assistant Secretary of Defense for Force Management and Personnel.

''(C) The Assistant Secretary of Labor for Veterans' Employment and Training.

''(4) The appointments of members of the Commission shall, to the maximum extent practicable, be made after consultation with representatives of veterans service organizations.

''(5) The appointments of the members of the Commission shall be made not later than 45 days after the date of the enactment of this Act [Oct. 9, 1996].

''(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

''(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed under subsection (b)(1), the Commission shall hold its first meeting.

''(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

''(f) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a chairman and vice chairman from among its members.

''(g) MEETINGS.—The Commission shall meet at the call of the chairman of the Commission.

''(h) PANELS.—The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. The actions of such panels shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

''(i) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

''SEC. 702. DUTIES OF COMMISSION.

''(a) IN GENERAL.—The Commission shall—

''(1) review the adequacy and effectiveness of veterans transition assistance and benefits programs in providing assistance to members of the Armed Forces in making the transition and adjustment to civilian life;

''(2) review the allocation under law of responsibility for the administration of veterans transition assistance and benefits programs among the various departments and agencies of the Government and determine the feasibility and desirability of consolidating such administration;

''(3) evaluate proposals for improving such programs, including proposals for alternative means of providing services delivered by such programs; and

''(4) make recommendations to Congress regarding the need for improvements in such programs.

''(b) REVIEW OF PROGRAMS TO ASSIST MEMBERS OF THE ARMED FORCES AT SEPARATION.—(1) While carrying out the general duties specified in subsection (a), the members of the Commission appointed under subparagraphs (C) and (D) of section 701(b)(1) and the member specified in subparagraph (B) of section 701(b)(3) shall review primarily the programs intended to assist members of the Armed Forces at the time of their separation from service in the Armed Forces, including programs designed to assist families of such members.

''(2) In carrying out the review, those members of the Commission shall determine the following:

''(A) The adequacy of the programs referred to in paragraph (1) for their purposes.

''(B) The adequacy of the support of the Armed Forces for such programs.

''(C) The adequacy of funding levels for such programs.

''(D) The effect, if any, of the existence of such programs on military readiness.

''(E) The extent to which such programs provide members of the Armed Forces with job-search skills.

''(F) The extent to which such programs prepare such members for employment in the private sector and in the public sector.

''(G) The effectiveness of such programs in assisting such members in finding employment in the public sector upon their separation from service.

''(H) The ways in which such programs could be improved.

''(3) In carrying out the review, the Commission shall make use of previous studies which have been made of such programs.

''(c) REVIEW OF PROGRAMS TO ASSIST VETERANS.—(1) While carrying out the general duties specified in subsection (a), the members of the Commission appointed under subparagraphs (A) and (B) of section 701(b)(1) and the members specified in subparagraphs (A) and (C) of section 701(b)(3) shall review the following programs:

''(A) Educational assistance programs.

''(B) Job counseling, job training, and job placement services programs.

''(C) Rehabilitation and training programs.

''(D) Housing loan programs.

''(E) Small business loan and small business assistance programs.

''(F) Employment and employment training programs for employment in the public sector and the private sector, including employer training programs and union apprenticeship programs.

''(G) Government personnel policies (including veterans' preference policies) and the enforcement of such policies.

''(H) Programs that prepare the families of members of the Armed Forces for their transition from military life to civilian life and facilitate that transition.

''(2) In carrying out the review, such members of the Commission shall determine the following:

''(A) The adequacy of the programs referred to in paragraph (1) for their purposes.

''(B) The adequacy of the support of the Department of Veterans Affairs for such programs.

''(C) The adequacy of funding levels for such programs.

''(D) The extent to which such programs provide veterans with job-search skills.

''(E) The extent to which such programs prepare veterans for employment in the private sector and in the public sector.

''(F) The effectiveness of such programs in assisting veterans in finding employment in the public sector upon their separation from service.

''(G) The ways in which such programs could be improved.

''(d) REPORTS.—(1) Not later than 90 days after the date on which all members of the Commission have been appointed under section 701(b)(1), the Commission shall submit to the Committees on Veterans' Affairs and Armed Services of the Senate and the Committees on Veterans' Affairs and National Security of the House of Representatives [now Committees on Veterans' Affairs and Armed Services of the House of Representatives] a report setting forth a plan for the work of the Commission. The Commission shall develop the plan in consultation with the Secretary of Defense, the Secretary of Veterans Affairs, the Secretary of Labor, and the heads of other appropriate departments and agencies of the Government.

''(2)(A) Not later than 18 months after the date of the first meeting of the Commission, the Commission shall submit to the committees referred to in paragraph (1), and to the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor, a report setting forth the activities, findings, and recommendations of the Commission, including any recommendations for legislative action and administrative action as the Commission considers appropriate.

''(B) Not later than 90 days after receiving the report referred to in subparagraph (A), the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor shall jointly transmit the report to Congress, together with the Secretaries' comments on the report.

''SEC. 703. POWERS OF COMMISSION.

''(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this title.

''(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from the Department of Defense, the Department of Veterans Affairs, and any other department or agency of the Government such information as the Commission considers necessary to carry out its duties under this title. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information expeditiously to the Commission.

''SEC. 704. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

''(a) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Government.

''(b) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(c) MISCELLANEOUS ADMINISTRATIVE SUPPORT.—The Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Labor shall, upon the request of the chairman of the Commission, furnish the Commission, on a reimbursable basis, any administrative and support services as the Commission may require.

''SEC. 705. COMMISSION PERSONNEL MATTERS.

''(a) COMPENSATION OF MEMBERS.—Each member of the Commission may be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in performing the duties of the Commission.

''(b) TRAVEL AND TRAVEL EXPENSES.—(1) Members and personnel of the Commission may travel on military aircraft, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Commission except when the cost of commercial transportation is less expensive.

''(2) The members of the Commission may be allowed travel expenses, including per diem in lieu of subsist-

ence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(c) STAFF.—(1) The chairman of the Commission may, without regard to civil service laws and regulations, appoint and terminate an executive director and up to five additional staff members as may be necessary to enable the Commission to perform its duties. In appointing an individual as executive director, the chairman shall, to the maximum extent practicable, attempt to appoint an individual who is a veteran. The employment of an executive director shall be subject to confirmation by the Commission.

''(2) The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other staff members may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the Commission, the head of any department or agency of the Government may detail, on a nonreimbursable basis, any personnel of the department or agency to the Commission to assist the Commission in carrying out its duties.

''(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of such title.

''SEC. 706. TERMINATION OF COMMISSION.

''The Commission shall terminate 90 days after the date on which it submits its report under section 702(d)(2).

''SEC. 707. DEFINITIONS.

''For the purposes of this title:

''(1) The term 'veterans transition assistance and benefits program' means any program of the Government the purpose of which is—

''(A) to assist, by rehabilitation or other means, members of the Armed Forces in readjusting or otherwise making the transition to civilian life upon their separation from service in the Armed Forces; or

''(B) to assist veterans in making the transition to civilian life.

''(2) The term 'Armed Forces' has the meaning given such term in section 101(10) of title 38, United States Code.

''(3) The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.

''(4) The term 'veterans service organization' means any organization covered by section 5902(a) of title 38, United States Code.

''SEC. 708. FUNDING.

''(a) IN GENERAL.—The Secretary of Defense shall, upon the request of the chairman of the Commission, make available to the Commission such amounts as the Commission may require to carry out its duties under this title. The Secretary shall make such amounts available from amounts appropriated for the Department of Defense, except that such amounts may not be from amounts appropriated for the transition assistance program (TAP), the Army career alumni program (ACAP), or any similar program.

''(b) AVAILABILITY.—Any sums made available to the Commission under subsection (a) shall remain available, without fiscal year limitation, until the termination of the Commission.''

ORIGINAL MEMBERS OF ADVISORY COMMITTEE

Section 333(b) of Pub. L. 104–262 provided that:

''(1) Notwithstanding subsection (a)(2) of section 545 of title 38, United States Code (as added by subsection (a)), the members of the Advisory Committee on the Readjustment of Vietnam and Other War Veterans on the date of the enactment of this Act [Oct. 9, 1996] shall be the original members of the advisory committee recognized under such section.

''(2) The original members shall so serve until the Secretary of Veterans Affairs carries out appointments under such subsection (a)(2). The Secretary of Veterans Affairs shall carry out such appointments as soon after such date as is practicable. The Secretary may make such appointments from among such original members.''

CHAPTER 7—EMPLOYEES

Sec.
701. Placement of employees in military installations.
703. Miscellaneous authorities respecting employees.
705. Telephone service for medical officers and facility directors.
707. Benefits for employees at overseas offices who are United States citizens.
709. Employment restrictions.
711. Grade reductions.
[712. Repealed.]

AMENDMENTS

2001—Pub. L. 107–103, title V, § 509(a)(2), Dec. 27, 2001, 115 Stat. 997, struck out item 712 ''Full-time equivalent positions: limitation on reduction''.

1994—Pub. L. 103–446, title XI, § 1102(b), Nov. 2, 1994, 108 Stat. 4681, added item 712.

§ 701. Placement of employees in military installations

The Secretary may place employees of the Department in such Army, Navy, and Air Force installations as may be considered advisable for the purpose of adjudicating disability claims of, and giving aid and advice to, members of the Armed Forces who are about to be discharged or released from active military, naval, or air service.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 394.)

PRIOR PROVISIONS

Prior sections 701 and 702 were renumbered sections 1901 and 1902 of this title, respectively.

Provisions similar to those in this section were contained in section 231 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 703. Miscellaneous authorities respecting employees

(a) The Secretary may furnish and launder such wearing apparel as may be prescribed for employees in the performance of their official duties.

(b) The Secretary may transport children of Department employees located at isolated stations to and from school in available Government-owned automotive equipment.

(c) The Secretary may provide recreational facilities, supplies, and equipment for the use of patients in hospitals and employees in isolated installations.

(d) The Secretary may provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures,

and other visual educational information and descriptive material. For the purposes of the preceding sentence, the Secretary may purchase or rent equipment.

(e) The Secretary may reimburse employees for the cost of repairing or replacing their personal property damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of their official duties.

(f)(1) The Secretary, upon determining that an emergency situation exists and that such action is necessary for the effective conduct of the affairs of the Department, may use Government-owned, or leased, vehicles to transport employees to and from their place of employment and the nearest adequate public transportation or, if such public transportation is either unavailable or not feasible to use, to and from their place of employment and their home.

(2) The Secretary shall establish reasonable rates to cover the cost of the service rendered under this subsection, and all proceeds collected therefrom shall be applied to the applicable appropriation.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 394.)

PRIOR PROVISIONS

Prior sections 703 and 704 were renumbered sections 1903 and 1904 of this title, respectively.

Provisions similar to those in this section were contained in section 233 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 705. Telephone service for medical officers and facility directors

The Secretary may pay for official telephone service and rental in the field whenever incurred in case of official telephones for directors of centers, hospitals, independent clinics, domiciliaries, and medical officers of the Department where such telephones are installed in private residences or private apartments or quarters, when authorized under regulations prescribed by the Secretary.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 395.)

PRIOR PROVISIONS

Prior sections 705 and 706 were renumbered sections 1905 and 1906 of this title, respectively.

Provisions similar to those in this section were contained in section 234 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 707. Benefits for employees at overseas offices who are United States citizens

(a) The Secretary may, under such rules and regulations as may be prescribed by the President or the President's designee, provide to personnel of the Department who are United States citizens and are assigned by the Secretary to the Department offices in the Republic of the Philippines allowances and benefits similar to those provided by the following provisions of law:

(1) Section 905 of the Foreign Service Act of 1980 (relating to allowances to provide for the proper representation of the United States).

(2) Sections 901(1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980 (relating to travel expenses).

(3) Section 901(13) of the Foreign Service Act of 1980 (relating to transportation of automobiles).

(4) Section 903 of the Foreign Service Act of 1980 (relating to the return of personnel to the United States on leave of absence).

(5) Section 904(d) of the Foreign Service Act of 1980 (relating to payments by the United States of expenses for treating illness or injury of officers or employees and dependents requiring hospitalization).

(6) Section 5724a(c) of title 5 (relating to subsistence expenses for 60 days in connection with the return to the United States of the employee and such employee's immediate family).

(7) Section 5724a(d) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).

(b) The authority in subsection (a) supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Department provided by title 5 and the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 395; amended Pub. L. 104–201, div. A, title XVII, § 1723(a)(2), Sept. 23, 1996, 110 Stat. 2759.)

REFERENCES IN TEXT

The Foreign Service Act of 1980, referred to in subsecs. (a)(1)–(5) and (b), is Pub. L. 96–465, Oct. 17, 1980, 94 Stat. 2071, as amended, which is classified principally to chapter 52 (§ 3901 et seq.) of Title 22, Foreign Relations and Intercourse. Sections 901, 903, 904(d), and 905 of the Foreign Service Act of 1980 are classified to sections 4081, 4083, 4084(d), and 4085, respectively of Title 22. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

PRIOR PROVISIONS

Prior sections 707 and 708 were renumbered sections 1907 and 1908 of this title, respectively.

Provisions similar to those in this section were contained in section 235 of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

1996—Subsec. (a)(6). Pub. L. 104–201, § 1723(a)(2)(A), substituted ''Section 5724a(c)'' for ''Section 5724a(a)(3)''.

Subsec. (a)(7). Pub. L. 104–201, § 1723(a)(2)(B), substituted ''Section 5724a(d)'' for ''Section 5724a(a)(4)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–201 effective 180 days after Sept. 23, 1996, see section 1725(a) of Pub. L. 104–201, set out as a note under section 5722 of Title 5, Government Organization and Employees.

EX. ORD. NO. 12228. ALLOWANCES FOR PERSONNEL ON FOREIGN DUTY

Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, as amended by Ex. Ord. No. 12292, Feb. 23, 1981, 46 F.R. 13967, provided:

By the authority vested in me as President of the United States of America by Sections 7 and 8 of the Defense Department Overseas Teachers Pay and Personnel Practices Act of 1959, as amended (20 U.S.C. 905–906), Section 235 [see 707] of Title 38 of the United States Code, and Section 301 of Title 3 of the United States

Code, and in order to delegate authority with respect to allowances for Veterans Administration [now Department of Veterans Affairs] personnel and to update existing authorities, it is hereby ordered as follows:

1–101. Payment of the additional compensation authorized by Section 8(a)(2) of the Defense Department Overseas Teachers Pay and Personnel Practices Act of 1959, as amended, shall be governed by the regulations contained in Executive Order No. 10000, as amended [set out as a note under section 5941 of Title 5, Government Organization and Employees], which govern the payment of additional compensation in foreign areas (referred to as foreign post differential), subject to the provisions of Section 8(b) of that Act (20 U.S.C. 906(a)(2) and (b)).

1–102. The following functions vested in the President are delegated to the Secretary of State:

(a) That part of the functions in Section 7(a) of the Defense Department Overseas Teachers Pay and Personnel Practices Act which consists of the authority to prescribe regulations relating to quarters and quarters allowances (20 U.S.C. 905(a)).

(b) The authority in Section 8(a)(1) of the Defense Department Overseas Teachers Pay and Personnel Practices Act to prescribe regulations relating to cost of living allowances (20 U.S.C. 906(a)(1)).

(c) The following authority in Section 235 [see 707] of Title 38 of the United States Code to prescribe rules and regulations:

(1) Section 235(2) [see 707(2)], except as that section pertains to an allowance similar to that provided for in Section 901(6) of the Foreign Service Act of 1980 (22 U.S.C. 4081(6));

(2) Section 235(3) [see 707(3)];

(3) Section 235(5) [see 707(5)];

(4) Section 235(6) [see 707(6)]; and

(5) Section 235(7) [see 707(7)].

1–103. The following functions vested in the President by Section 235 [see 707] of Title 38 of the United States Code are delegated to the Administrator of the Veterans Administration [now Secretary of Veterans Affairs]. The authority with respect to the allowances or benefits of paragraphs (1) and (4) of Section 235 [see 707(1), (4)] which are similar to the benefits and allowances provided in the sections of the Foreign Service Act of 1980 [22 U.S.C. 3901 et seq.], designated in those paragraphs.

1–104. Executive Order No. 10853 [not classified to Code], as amended, is revoked. The rules and regulations which were prescribed by the Secretary of State or the Administrator of the Veterans Administration [now Secretary of Veterans Affairs] pursuant to Executive Order No. 10853, as amended, and which would be valid if issued pursuant to this Order, shall be deemed to have been issued under this Order.

§ 709. Employment restrictions

(a)(1) Notwithstanding section 3134(d) of title 5, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) The number of positions in the Department which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c)(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply—

(A) to the appointment of any person by the President under this title, other than the appointment of the Under Secretary for Health, the Under Secretary for Benefits, and the Inspector General; or

(B) to the appointment of any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position that is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 395; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Prior sections 709 and 710 were renumbered sections 1909 and 1910 of this title, respectively.

Provisions similar to those in this section were contained in section 12 of Pub. L. 100–527, known as the Department of Veterans Affairs Act, prior to repeal by Pub. L. 102–83, § 3(3).

AMENDMENTS

1992—Subsec. (c)(2)(A). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' and ''Under Secretary for Benefits'' for ''Chief Benefits Director''.

§ 711. Grade reductions

(a) The Secretary may not implement a grade reduction described in subsection (b) unless the Secretary first submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a detailed plan for such reduction and a detailed justification for the plan. The report shall include a determination by the Secretary (together with data supporting such determination) that, in the personnel area concerned, the Department has a disproportionate number of employees at the salary grade or grades selected for reduction in comparison to the number of such employees at the salary levels involved who perform comparable functions in other departments and agencies of the Federal Government and in non-Federal entities. Any grade reduction described in such report may not take effect until the end of a period of 90 calendar days (not including any day on which either House of Congress is not in session) after the report is received by the committees.

(b) A grade reduction referred to in subsection (a) is a systematic reduction, for the purpose of reducing the average salary cost for Department employees described in subsection (c), in the number of such Department employees at a specific grade level.

(c) The employees referred to in subsection (b) are—

(1) health-care personnel who are determined by the Secretary to be providing either direct

patient-care services or services incident to direct patient-care services;

(2) individuals who meet the definition of professional employee as set forth in section 7103(a)(15) of title 5; and

(3) individuals who are employed as computer specialists.

(d) Not later than the 45th day after the Secretary submits a report under subsection (a), the Comptroller General shall, upon request of either of such Committees, submit to such committees a report on the Secretary's compliance with such subsection. The Comptroller General shall include in the report the Comptroller General's opinion as to the accuracy of the Secretary's determination (and of the data supporting such determination) made under such subsection.

(e) In the case of Department employees not described in subsection (c), the Secretary may not in any fiscal year implement a systematic reduction for the purpose of reducing the average salary cost for such Department employees that will result in a reduction in the number of such Department employees at any specific grade level at a rate greater than the rate of the reductions systematically being made in the numbers of employees at such grade level in all other agencies and departments of the Federal Government combined.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 396; amended Pub. L. 103–446, title XII, § 1201(e)(5), Nov. 2, 1994, 108 Stat. 4685; Pub. L. 104–316, title I, § 119, Oct. 19, 1996, 110 Stat. 3836.)

PRIOR PROVISIONS

Prior section 711 was renumbered section 1911 of this title.

Provisions similar to those in this section were contained in former section 210(b)(3) of this title prior to repeal by Pub. L. 102–83, § 2(a).

Prior sections 712 to 729, 740 to 763, 765 to 779, 781 to 788, and 801 to 806 were renumbered sections 1912 to 1929, 1940 to 1963, 1965 to 1979, 1981 to 1988, and 2101 to 2106 of this title, respectively.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–316 inserted ", upon request of either of such Committees," after "the Comptroller General shall" in first sentence.

1994—Subsec. (d). Pub. L. 103–446 substituted "committees" for "Committees".

[§ 712. Repealed. Pub. L. 107–103, title V, § 509(a)(1), Dec. 27, 2001, 115 Stat. 997]

Section, added Pub. L. 103–446, title XI, § 1102(a), Nov. 2, 1994, 108 Stat. 4680; amended Pub. L. 104–262, title III, § 303, Oct. 9, 1996, 110 Stat. 3194; Pub. L. 105–33, title VIII, § 8023(e), Aug. 5, 1997, 111 Stat. 667; Pub. L. 105–368, title X, § 1005(b)(1), Nov. 11, 1998, 112 Stat. 3364, limited reduction of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on Nov. 2, 1994, and ending on Sept. 30, 1999.

CHAPTER 9—SECURITY AND LAW ENFORCEMENT ON PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT

Sec.
901. Authority to prescribe rules for conduct and penalties for violations.
902. Enforcement and arrest authority of Department police officers.
903. Uniform allowance.
904. Equipment and weapons.
905. Use of facilities and services of other law enforcement agencies.

§ 901. Authority to prescribe rules for conduct and penalties for violations

(a)(1) The Secretary shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on Department property.

(2) In this chapter, the term "Department property" means land and buildings that are under the jurisdiction of the Department and are not under control of the Administrator of General Services.

(b) Regulations under subsection (a) shall include—

(1) rules for conduct on Department property; and

(2) the penalties, within the limits specified in subsection (c), for violations of such rules.

(c) Whoever violates any rule prescribed by regulation under subsection (b)(1) shall be fined in accordance with title 18 or imprisoned not more than six months, or both. The Secretary may prescribe by regulation a maximum fine less than that which would otherwise apply under the preceding sentence or a maximum term of imprisonment of a shorter period than that which would otherwise apply under the preceding sentence, or both. Any such regulation shall apply notwithstanding any provision of title 18 or any other law to the contrary.

(d) The rules prescribed under subsection (a), together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

(e) The Secretary shall consult with the Attorney General before prescribing regulations under this section.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 397.)

PRIOR PROVISIONS

Prior section 901 was renumbered section 2301 of this title.

Provisions similar to those in this section were contained in section 218(a) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 902. Enforcement and arrest authority of Department police officers

(a)(1) Employees of the Department who are Department police officers shall, with respect to acts occurring on Department property, enforce—

(A) Federal laws;

(B) the rules prescribed under section 901 of this title; and

(C) subject to paragraph (2), traffic and motor vehicle laws of a State or local government within the jurisdiction of which such Department property is located.

(2) A law described in subparagraph (C) of paragraph (1) may be enforced under such subparagraph only as authorized by an express grant of authority under applicable State or local law. Any such enforcement shall be by the issuance of a citation for violation of such law.

(3) Subject to regulations prescribed under subsection (b), a Department police officer may make arrests on Department property for a violation of a Federal law or any rule prescribed under section 901(a) of this title.

(b) The Secretary shall prescribe regulations with respect to Department police officers. Such regulations shall include—

(1) policies with respect to the exercise by Department police officers of the enforcement and arrest authorities provided by this section;

(2) the scope and duration of training that is required for Department police officers, with particular emphasis on dealing with situations involving patients; and

(3) rules limiting the carrying and use of weapons by Department police officers.

(c) The Secretary shall consult with the Attorney General before prescribing regulations under paragraph (1) of subsection (b).

(d) Rates of basic pay for Department police officers may be increased by the Secretary under section 7455 of this title.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 397.)

PRIOR PROVISIONS

Prior section 902 was renumbered section 2302 of this title.

Provisions similar to those in this section were contained in section 218(b) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 903. Uniform allowance

(a) The Secretary may pay an allowance under this section for the purchase of uniforms to any Department police officer who is required to wear a prescribed uniform in the performance of official duties.

(b) The amount of the allowance that the Secretary may pay under this section—

(1) may be based on estimated average costs or actual costs;

(2) may vary by geographic regions; and

(3) except as provided in subsection (c), may not exceed $200 in a fiscal year for any police officer.

(c) The amount of an allowance under this section may be increased to an amount up to $400 for not more than one fiscal year in the case of any Department police officer. In the case of a person who is appointed as a Department police officer on or after January 1, 1990, an allowance in an amount established under this subsection shall be paid at the beginning of such person's employment as such an officer. In the case of any other Department police officer, an allowance in an amount established under this subsection shall be paid upon the request of the officer.

(d) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this section shall repay to the Department a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the twelve-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such an allowance, as the case may be.

(e) An allowance may not be paid to a Department police officer under this section and under section 5901 of title 5 for the same fiscal year.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 398.)

PRIOR PROVISIONS

Prior section 903 was renumbered section 2303 of this title.

Provisions similar to those in this section were contained in section 218(c) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 904. Equipment and weapons

The Secretary shall furnish Department police officers with such weapons and related equipment as the Secretary determines to be necessary and appropriate.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 399.)

PRIOR PROVISIONS

Prior section 904 was renumbered section 2304 of this title.

Provisions similar to those in this section were contained in section 218(d) of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 905. Use of facilities and services of other law enforcement agencies

With the permission of the head of the agency concerned, the Secretary may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.

(Added Pub. L. 102–83, § 2(a), Aug. 6, 1991, 105 Stat. 399.)

PRIOR PROVISIONS

Prior section 905 was renumbered section 2305 of this title.

Provisions similar to those in this section were contained in section 218(e) of this title prior to repeal by Pub. L. 102–83, § 2(a).

Prior sections 906 to 908 and 1000 to 1010 were renumbered sections 2306 to 2308 and 2400 to 2410 of this title, respectively.

PART II—GENERAL BENEFITS

Chap.		Sec.
11.	Compensation for Service-Connected Disability or Death	1101
13.	Dependency and Indemnity Compensation for Service-Connected Deaths	1301
15.	Pension for Non-Service-Connected Disability or Death or for Service	1501
17.	Hospital, Nursing Home, Domiciliary, and Medical Care	1701
18.	Benefits for Children of Vietnam Veterans and Certain Other Veterans	1802
19.	Insurance	1901
20.	Benefits for Homeless Veterans	2001
21.	Specially Adapted Housing for Disabled Veterans	2101
23.	Burial Benefits	2301
24.	National Cemeteries and Memorials	2400

AMENDMENTS

2003—Pub. L. 108–183, title I, § 102(e)(2), Dec. 16, 2003, 117 Stat. 2655, substituted ''Benefits for Children of

Vietnam Veterans and Certain Other Veterans'' for ''Benefits for Children of Vietnam Veterans'' in item for chapter 18.

2001—Pub. L. 107–95, § 5(a)(2), Dec. 21, 2001, 115 Stat. 918, added item for chapter 20.

2000—Pub. L. 106–419, title IV, § 401(f)(2), Nov. 1, 2000, 114 Stat. 1861, substituted ''Benefits for Children of Vietnam Veterans'' and ''1802'' for ''Benefits for Children of Vietnam Veterans Who Are Born With Spina Bifida'' and ''1801'', respectively, in item for chapter 18.

1996—Pub. L. 104–204, title IV, § 421(b)(2), Sept. 26, 1996, 110 Stat. 2926, added item for chapter 18.

1991—Pub. L. 102–83, § 5(b)(2), Aug. 6, 1991, 105 Stat. 406, renumbered references to section numbers by substituting ''1101'' for ''301'' in item for chapter 11, ''1301'' for ''401'' in item for chapter 13, ''1501'' for ''501'' in item for chapter 15, ''1701'' for ''601'' in item for chapter 17, ''1901'' for ''701'' in item for chapter 19, ''2101'' for ''801'' in item for chapter 21, ''2301'' for ''901'' in item for chapter 23, and ''2400'' for ''1000'' in item for chapter 24.

1976—Pub. L. 94–581, title II, § 203(a), Oct. 21, 1976, 90 Stat. 2856, inserted ''Nursing Home,'' in item for chapter 17.

1973—Pub. L. 93–43, § 2(b), June 18, 1973, 87 Stat. 78, added item for chapter 24.

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

SUBCHAPTER I—GENERAL

Sec.
1101. Definitions.
1102. Special provisions relating to surviving spouses.
1103. Special provisions relating to claims based upon effects of tobacco products.
1104. Cost-of-living adjustments.

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

1110. Basic entitlement.
1111. Presumption of sound condition.
1112. Presumptions relating to certain diseases and disabilities.
1113. Presumptions rebuttable.
1114. Rates of wartime disability compensation.
1115. Additional compensation for dependents.
1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam.
1117. Compensation for disabilities occurring in Persian Gulf War veterans.
1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War.

SUBCHAPTER III—WARTIME DEATH COMPENSATION

1121. Basic entitlement.
1122. Rates of wartime death compensation.

SUBCHAPTER IV—PEACETIME DISABILITY COMPENSATION

1131. Basic entitlement.
1132. Presumption of sound condition.
1133. Presumptions relating to certain diseases.
1134. Rates of peacetime disability compensation.
1135. Additional compensation for dependents.
1137. Wartime presumptions for certain veterans.

SUBCHAPTER V—PEACETIME DEATH COMPENSATION

1141. Basic entitlement.
1142. Rates of peacetime death compensation.

SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

1151. Benefits for persons disabled by treatment or vocational rehabilitation.
Sec.
1152. Persons heretofore having a compensable status.
1153. Aggravation.
1154. Consideration to be accorded time, place, and circumstances of service.
1155. Authority for schedule for rating disabilities.
1157. Combination of certain ratings.
1158. Disappearance.
1159. Protection of service connection.
1160. Special consideration for certain cases of loss of paired organs or extremities.
1161. Payment of disability compensation in disability severance cases.
1162. Clothing allowance.
1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.

AMENDMENTS

2001—Pub. L. 107–103, title II, § 201(c)(2)(B), Dec. 27, 2001, 115 Stat. 988, substituted ''Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam'' for ''Presumptions of service connection for diseases associated with exposure to certain herbicide agents'' in item 1116.

1998—Pub. L. 105–368, title X, § 1005(a), Nov. 11, 1998, 112 Stat. 3364, renumbered item 1103 ''Cost-of-living adjustments'' as 1104.

Pub. L. 105–277, div. C, title XVI, § 1602(a)(2), Oct. 21, 1998, 112 Stat. 2681–744, added item 1118.

Pub. L. 105–178, title VIII, § 8202(a)(2), as added by Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865, added item 1103 ''Special provisions relating to claims based upon effects of tobacco products''.

1997—Pub. L. 105–33, title VIII, § 8031(a)(2), Aug. 5, 1997, 111 Stat. 668, added item 1103 ''Cost-of-living adjustments''.

1994—Pub. L. 103–446, title I, § 106(a)(2), Nov. 2, 1994, 108 Stat. 4651, added item 1117.

1992—Pub. L. 102–568, title IV, § 401(d)(2), Oct. 29, 1992, 106 Stat. 4336, substituted ''Trial work periods and vocational rehabilitation for certain veterans with total disability ratings'' for ''Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings'' in item 1163.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 301 to 363 as 1101 to 1163, respectively.

Pub. L. 102–4, § 2(a)(2), Feb. 6, 1991, 105 Stat. 13, added item 316.

1986—Pub. L. 99–576, title I, § 109(a)(2), Oct. 28, 1986, 100 Stat. 3253, amended item 360 generally, substituting ''loss of paired organs or extremities'' for ''blindness or bilateral kidney involvement or bilateral deafness''.

1984—Pub. L. 98–543, title I, § 111(a)(2), Oct. 24, 1984, 98 Stat. 2739, added item 363.

1982—Pub. L. 97–295, § 4(9), Oct. 12, 1982, 96 Stat. 1305, added item 361.

1976—Pub. L. 94–433, title IV, §§ 401(1), 404(5), Sept. 30, 1976, 90 Stat. 1377, 1378, substituted ''surviving spouses'' for ''widows'' in item 302 and struck out item 356 ''Minimum rating for arrested tuberculosis''.

1974—Pub. L. 93–295, title II, § 206(c), May 31, 1974, 88 Stat. 183, struck out item 343 ''Conditions under which wartime rates payable''.

1972—Pub. L. 92–328, title I, §§ 103(b), 108(d), June 30, 1972, 86 Stat. 394, 396, struck out item 336 ''Conditions under which wartime rates payable'' and added item 362.

1970—Pub. L. 91–376, § 3(c), Aug. 12, 1970, 84 Stat. 789, inserted reference to disabilities in item 312.

1966—Pub. L. 89–358, § 7(b), Mar. 3, 1966, 80 Stat. 27, added item 337.

1965—Pub. L. 89–311, § 3(c), Oct. 31, 1965, 79 Stat. 1155, inserted reference to bilateral deafness in item 360.

1962—Pub. L. 87–610, § 2, Aug. 28, 1962, 76 Stat. 406, added item 360.

1960—Pub. L. 86–501, § 2, June 10, 1960, 74 Stat. 195, added item 359.

SUBCHAPTER I—GENERAL

§ 1101. Definitions

For the purposes of this chapter—

(1) The term ''veteran'' includes a person who died in the active military, naval, or air service.

(2) The term ''period of war'' includes, in the case of any veteran—

(A) any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918; and

(B) any period of continuous service performed by such veteran after December 31, 1946, and before July 26, 1947, if such period began before January 1, 1947.

(3) The term ''chronic disease'' includes—

Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calculi of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension
Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen's disease
Hodgkin's disease
Leukemia
Lupus erythematosus, systemic
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget's disease)
Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud's disease
Sarcoidosis
Scleroderma
Sclerosis, amyotrophic lateral
Sclerosis, multiple
Syringomyelia
Thromboangiitis obliterans (Buerger's disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Secretary may add to this list.

(4) The term ''tropical disease'' includes—

Amebiasis
Blackwater fever
Cholera
Dracontiasis
Dysentery
Filiariasis
Hansen's disease
Leishmaniasis, including kala-azar
Loiasis
Malaria
Onchocerciasis
Oroya fever
Pinta
Plague
Schistosomiasis
Yaws
Yellow fever

and such other tropical diseases as the Secretary may add to this list.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1118, § 301; Pub. L. 94–433, title IV, §§ 401(2), (3), 404(1), Sept. 30, 1976, 90 Stat. 1377, 1378; Pub. L. 98–160, title VII, § 702(2), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 100–322, title III, § 313, May 20, 1988, 102 Stat. 535; renumbered § 1101 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 301 of this title as this section.

Pars. (3), (4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Par. (3). Pub. L. 100–322 inserted ''Lupus erythematosus, systemic'' after ''Leukemia''.

1983—Par. (3). Pub. L. 98–160 substituted a period for the semicolon at end of paragraph following ''may add to this list''.

1976—Par. (2)(A), (B). Pub. L. 94–433, § 404(1), substituted ''such veteran'' for ''him'' in subpars. (A) and (B).

Par. (3). Pub. L. 94–433, § 401(2), substituted ''Hansen's disease'' for ''Leprosy''.

Par. (4). Pub. L. 94–433, § 401(3), inserted ''Hansen's disease'' after ''Filiariasis'' and struck out ''Leprosy'' before ''Loiasis''.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 406 of Pub. L. 94–433 provided that: ''The provisions of this Act [see Tables for classification] shall become effective on October 1, 1976.''

EFFECTIVE DATE OF FUTURE INCREASES

Pub. L. 98–223, title I, § 108, Mar. 2, 1984, 98 Stat. 40, provided that: ''It is the sense of the Congress that any increase provided by law to take effect after fiscal year 1984 in the rates of disability compensation and dependency and indemnity compensation payable under chapters 11 and 13, respectively, of title 38, United States Code, shall take effect on December 1 of the fiscal year involved and that the budgets for any such fiscal year include amounts to achieve such purpose.''

[Section 108 of Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.]

VETERANS' DISABILITY BENEFITS COMMISSION

Pub. L. 108–136, div. A, title XV, Nov. 24, 2003, 117 Stat. 1676, provided that:

''SEC. 1501. ESTABLISHMENT OF COMMISSION.

''(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Disability Benefits Commission (hereinafter in this title referred to as the 'commission').

''(b) MEMBERSHIP.—(1) The commission shall be composed of 13 members, appointed as follows:

''(A) Two members appointed by the Speaker of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(B) Two members appointed by the minority leader of the House of Representatives, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(C) Two members appointed by the majority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(D) Two members appointed by the minority leader of the Senate, at least one of whom shall be a veteran who was awarded a decoration specified in paragraph (2).

''(E) Five members appointed by the President, at least three of whom shall be veterans who were awarded a decoration specified in paragraph (2).

''(2) A decoration specified in this paragraph is any of the following:

''(A) The Medal of Honor.

''(B) The Distinguished Service Cross, the Navy Cross, or the Air Force Cross.

''(C) The Silver Star.

''(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

''(4) The appointment of members of the commission under this subsection shall be made not later than 60 days after the date of the enactment of this Act [Nov. 24, 2003].

''(c) PERIOD OF APPOINTMENT.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers.

''(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which a majority of the members of the commission have been appointed.

''(e) MEETINGS.—The commission shall meet at the call of the chairman.

''(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

''(g) CHAIRMAN.—The President shall designate a member of the commission to be chairman of the commission.

''SEC. 1502. DUTIES OF THE COMMISSION.

''(a) STUDY.—The commission shall carry out a study of the benefits under the laws of the United States that are provided to compensate and assist veterans and their survivors for disabilities and deaths attributable to military service.

''(b) SCOPE OF STUDY.—In carrying out the study, the commission shall examine and make recommendations concerning the following:

''(1) The appropriateness of such benefits under the laws in effect on the date of the enactment of this Act [Nov. 24, 2003].

''(2) The appropriateness of the level of such benefits.

''(3) The appropriate standard or standards for determining whether a disability or death of a veteran should be compensated.

''(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section shall be a comprehensive evaluation and assessment of the benefits provided under the laws of the United States to compensate veterans and their survivors for disability or death attributable to military service, together with any related issues that the commission determines are relevant to the purposes of the study. The study shall include an evaluation and assessment of the following:

''(1) The laws and regulations which determine eligibility for disability and death benefits, and other assistance for veterans and their survivors.

''(2) The rates of such compensation, including the appropriateness of a schedule for rating disabilities based on average impairment of earning capacity.

''(3) Comparable disability benefits provided to individuals by the Federal Government, State governments, and the private sector.

''(d) CONSULTATION WITH INSTITUTE OF MEDICINE.—In carrying out the study under this section, the commission shall consult with the Institute of Medicine of the National Academy of Sciences with respect to the medical aspects of contemporary disability compensation policies.

''SEC. 1503. REPORT.

''Not later than 15 months after the date on which the commission first meets, the commission shall submit to the President and Congress a report on the study. The report shall include the following:

''(1) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in section 1502(c).

''(2) The recommendations of the commission for revising the benefits provided by the United States to veterans and their survivors for disability and death attributable to military service.

''(3) Other information and recommendations with respect to such benefits as the commission considers appropriate.

''SEC. 1504. POWERS OF THE COMMISSION.

''(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

''(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 1502(c), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

''(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

''(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

''SEC. 1505. PERSONNEL MATTERS.

''(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

''(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

''(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

''(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of

any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the commission to assist it in carrying out its duties.

''(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

''SEC. 1506. TERMINATION OF COMMISSION.

''The commission shall terminate 60 days after the date on which the commission submits its report under section 1503.

''SEC. 1507. FUNDING.

''(a) IN GENERAL.—The Secretary of Veterans Affairs shall, upon the request of the chairman of the commission, make available to the commission such amounts as the commission may require to carry out its duties under this title.

''(b) AVAILABILITY.—Any sums made available to the commission under subsection (a) shall remain available, without fiscal year limitation, until the termination of the commission.''

TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEED-BASED BENEFITS

Pub. L. 103–446, title V, § 506, Nov. 2, 1994, 108 Stat. 4664, provided that: ''Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.''

COST-OF-LIVING INCREASES IN COMPENSATION RATES

Pub. L. 103–446, title I, § 111(b), Nov. 2, 1994, 108 Stat. 4654, provided that: ''The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.''

Pub. L. 103–66, title XII, § 12008, Aug. 10, 1993, 107 Stat. 415, provided that:

''(a) POLICY.—The fiscal year 1994 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title, except as provided in subsection (b) of this section, will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1993, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

''(b) LIMITATION ON FISCAL YEAR 1994 COST-OF-LIVING ADJUSTMENT FOR CERTAIN DIC RECIPIENTS.—(1) During fiscal year 1994, the amount of any increase in any of the rates of dependency and indemnity compensation in effect under section 1311(a)(3) of title 38, United States Code, will not exceed 50 percent of the new law increase, rounded down (if not an even dollar amount) to the next lower dollar.

''(2) For purposes of paragraph (1), the new law increase is the amount by which the rate of dependency and indemnity compensation provided for recipients under section 1311(a)(1) of such title is increased for fiscal year 1994.''

Pub. L. 101–508, title VIII, § 8005, Nov. 5, 1990, 104 Stat. 1388–343, provided that:

''(a) POLICY REGARDING FISCAL YEAR 1991.—The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 5.4 percent increase, with all increased monthly rates rounded down to the next lower dollar. The effective date for such adjustments will not be earlier than January 1, 1991.

''(b) INCREASE PAYABLE AS OF JANUARY 1992.—The amount of compensation or dependency and indemnity compensation payable to any individual for the month of January 1992 who is entitled to such benefits as of January 1, 1992, shall be increased for such month by the amount equal to the amount of the monthly increase provided for that individual's benefit level as of January 1, 1991, pursuant to the adjustments described in subsection (a).''

BENEFITS AND SERVICES FOR FORMER PRISONERS OF WAR; IMPLEMENTATION OF PROGRAMS; RECORDS FOR DISPOSITION OF CLAIMS; DEFINITION

Pub. L. 97–37, § 6, Aug. 14, 1981, 95 Stat. 937, provided that:

''(a) Not later than ninety days after the date of the enactment of this Act [Aug. 14, 1981] and at appropriate times thereafter, the Administrator shall, to the maximum extent feasible and in order to carry out the requirements of the veterans outreach services program under subchapter IV of chapter 3 [see subchapter II of chapter 77] of title 38, United States Code, seek out former prisoners of war and provide them with information regarding applicable changes in law, regulations, policies, guidelines, or other directives affecting the benefits and services to which former prisoners of war are entitled under such title by virtue of the amendments made by this Act [see Tables for classification].

''(b)(1) The Administrator shall, for not less than the three-year period beginning ninety days after the date of the enactment of this Act [Aug. 14, 1981], maintain a centralized record showing all claims for benefits under chapter 11 of such title that are submitted by former prisoners of war and the disposition of such claims.

''(2) Not later than ninety days after the end of the three-year period described in paragraph (1), the Administrator shall, after consulting with and receiving the views of the Advisory Committee on Former Prisoners of War required to be established pursuant to section 221 [see 541] of such title, submit a report on the results of the disposition of claims described in such paragraph, together with any comments or recommendations that the Administrator may have, to the appropriate committees of Congress. The Administrator may also submit to such committees interim reports on such results.

''(c) For the purposes of this section, the term ''former prisoner of war'' has the meaning given such term in paragraph (32) of section 101 of title 38, United States Code (as added by section 3(a) of this Act).''

STUDY ON DISABILITY COMPENSATION AND HEALTH-CARE NEEDS OF FORMER PRISONERS OF WAR; REPORT TO PRESIDENT AND CONGRESS

Pub. L. 95–479, title III, § 305, Oct. 18, 1978, 92 Stat. 1565, directed Administrator of Veterans' Affairs, in consultation with Secretary of Defense, to carry out a comprehensive study of disability compensation awarded to, and health care needs of veterans who are former prisoners of war and to submit a report on results of such study to Congress and President not later than Feb. 1, 1980.

AMPUTEES, CARDIOVASCULAR DISORDERS; STUDY

Section 403 of Pub. L. 94–433 directed Administrator to conduct a scientific study to determine if there is causal relationship between amputation of an extremity and subsequent development of cardiovascular disorders and to report to Speaker and President of Senate not later than June 30, 1977.

STUDY OF CLAIMS FOR DEPENDENCY AND INDEMNITY COMPENSATION

Pub. L. 93–295, title II, § 207, May 31, 1974, 88 Stat. 183, directed Administrator of Veterans' Affairs to make a detailed study of claims for dependency and indemnity compensation relating to veterans, as defined in section 101(2) of this title, who at time of death within six months prior to May 31, 1974, were receiving disability compensation from Veterans' Administration based upon a rating total and permanent in nature, and submit a report together with such comments and recommendations as Administrator deemed appropriate to Speaker of the House and President of the Senate not more than thirty days after Jan. 14, 1975.

§ 1102. Special provisions relating to surviving spouses

(a) No compensation shall be paid to the surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(b) Subsection (a) shall not be applicable to any surviving spouse who, with respect to date of marriage, could have qualified as a surviving spouse for death compensation under any law administered by the Secretary in effect on December 31, 1957.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1119, § 302; Pub. L. 86–491, June 8, 1960, 74 Stat. 161; Pub. L. 90–77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94–433, title IV, § 404(2)–(4), Sept. 30, 1976, 90 Stat. 1378; renumbered § 1102 and amended Pub. L. 102–83, §§ 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 302 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1976—Pub. L. 94–433, § 404(4), substituted ''surviving spouses'' for ''widows'' in section catchline.

Subsec. (a). Pub. L. 94–433, § 404(2), substituted ''surviving spouse of a veteran under this chapter unless such surviving spouse was married to such veteran'' for ''widow of a veteran under this chapter unless she was married to him''.

Subsec. (b). Pub. L. 94–433, § 404(3), substituted ''surviving spouse'' for ''widow'' in two places.

1967—Subsec. (a)(2), (3). Pub. L. 90–77 qualified widow of a veteran for receipt of compensation by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

1960—Subsec. (a)(1). Pub. L. 86–491 substituted ''fifteen years'' for ''ten years''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 1103. Special provisions relating to claims based upon effects of tobacco products

(a) Notwithstanding any other provision of law, a veteran's disability or death shall not be considered to have resulted from personal injury suffered or disease contracted in the line of duty in the active military, naval, or air service for purposes of this title on the basis that it resulted from injury or disease attributable to the use of tobacco products by the veteran during the veteran's service.

(b) Nothing in subsection (a) shall be construed as precluding the establishment of service connection for disability or death from a disease or injury which is otherwise shown to have been incurred or aggravated in active military, naval, or air service or which became manifest to the requisite degree of disability during any applicable presumptive period specified in section 1112 or 1116 of this title.

(Added Pub. L. 105–178, title VIII, § 8202(a)(1), as added Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865.)

PRIOR PROVISIONS

A prior section 1103 was renumbered section 1104 of this title.

EFFECTIVE DATE

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as an Effective Date of 1998 Amendment note under section 101 of Title 23, Highways.

Pub. L. 105–178, title VIII, § 8202(b), as amended by Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865, provided that: ''Section 1103 of title 38, United States Code, as added by subsection (a), shall apply with respect to claims received by the Secretary of Veterans Affairs after the date of the enactment of this Act [June 9, 1998].''

§ 1104. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2013 in the rates of, and dollar limitations applicable to, compensation payable under this chapter, such adjustments shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b) For purposes of this section, the term ''social security increase'' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(Added Pub. L. 105–33, title VIII, § 8031(a)(1), Aug. 5, 1997, 111 Stat. 668, § 1103; renumbered § 1104, Pub. L. 105–368, title X, § 1005(a), Nov. 11, 1998, 112 Stat. 3364; amended Pub. L. 107–103, title II, § 205, Dec. 27, 2001, 115 Stat. 990; Pub. L. 108–183, title VII, § 706, Dec. 16, 2003, 117 Stat. 2672.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''2013'' for ''2011''.

2001—Subsec. (a). Pub. L. 107–103 substituted ''2011'' for ''2002''.

1998—Pub. L. 105–368 renumbered section 1103 of this title as this section.

SUBCHAPTER II—WARTIME DISABILITY COMPENSATION

§ 1110. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1119, § 310; Pub. L. 101–508, title VIII, § 8052(a)(2), Nov. 5, 1990, 104 Stat. 1388–351; renumbered § 1110, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–178, title VIII, § 8202(a), June 9, 1998, 112 Stat. 492; Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865.)

AMENDMENTS

1998—Pub. L. 105–178, which directed the substitution of '', abuse of alcohol or drugs, or use of tobacco products'' for ''or abuse of alcohol or drugs'' before the period at end, was amended generally by Pub. L. 105–206, which provided that the amendments made by that section as originally enacted shall be treated for all purposes as not having been made. See Effective Date of 1998 Amendment note below.

1991—Pub. L. 102–83 renumbered section 310 of this title as this section.

1990—Pub. L. 101–508 substituted ''a result of the veteran's own willful misconduct or abuse of alcohol or drugs'' for ''the result of the veteran's own willful misconduct''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178 as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective with respect to claims filed after Oct. 31, 1990, see section 8052(b) of Pub. L. 101–508, set out as a note under section 105 of this title.

CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865, provided that section 8202 of Pub. L. 105–178 is amended generally and that the amendments made by that section as originally enacted shall be treated for all purposes as not having been made.

§ 1111. Presumption of sound condition

For the purposes of section 1110 of this title, every veteran shall be taken to have been in sound condition when examined, accepted, and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance, and enrollment, or where clear and unmistakable evidence demonstrates that the injury or disease existed before acceptance and enrollment and was not aggravated by such service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1119, § 311; renumbered § 1111 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 311 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1110'' for ''310''.

§ 1112. Presumptions relating to certain diseases and disabilities

(a) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, in the case of any veteran who served for ninety days or more during a period of war—

(1) a chronic disease becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service;

(2) a tropical disease, and the resultant disorders or disease originating because of therapy, administered in connection with such diseases, or as a preventative thereof, becoming manifest to a degree of 10 percent or more within one year from the date of separation from such service, or at a time when standard or accepted treatises indicate that the incubation period thereof commenced during such service;

(3) active tuberculous disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

(4) multiple sclerosis developing a 10 percent degree of disability or more within seven years from the date of separation from such service;

(5) Hansen's disease developing a 10 percent degree of disability or more within three years from the date of separation from such service;

shall be considered to have been incurred in or aggravated by such service, notwithstanding there is no record of evidence of such disease during the period of service.

(b)(1) For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war—

(A) a disease specified in paragraph (2) which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service; and

(B) if the veteran was detained or interned as a prisoner of war for not less than thirty days, a disease specified in paragraph (3) which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

(2) The diseases specified in this paragraph are the following:

(A) Psychosis.

(B) Any of the anxiety states.

(C) Dysthymic disorder (or depressive neurosis).

(D) Organic residuals of frostbite, if the Secretary determines that the veteran was detained or interned in climatic conditions consistent with the occurrence of frostbite.

(E) Post-traumatic osteoarthritis.

(3) The diseases specified in this paragraph are the following:

(A) Avitaminosis.

(B) Beriberi (including beriberi heart disease).

(C) Chronic dysentery.

(D) Helminthiasis.

(E) Malnutrition (including optic atrophy associated with malnutrition).

(F) Pellagra.

(G) Any other nutritional deficiency.

(H) Cirrhosis of the liver.

(I) Peripheral neuropathy except where directly related to infectious causes.

(J) Irritable bowel syndrome.

(K) Peptic ulcer disease.

(c)(1) For the purposes of section 1110 of this title, and subject to the provisions of section 1113 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran shall be considered to have been incurred in or aggravated during active military, naval, or air service, notwithstanding that there is no record of evidence of such disease during a period of such service.

(2) The diseases referred to in paragraph (1) of this subsection are the following:

(A) Leukemia (other than chronic lymphocytic leukemia).

(B) Cancer of the thyroid.

(C) Cancer of the breast.

(D) Cancer of the pharynx.

(E) Cancer of the esophagus.

(F) Cancer of the stomach.

(G) Cancer of the small intestine.

(H) Cancer of the pancreas.

(I) Multiple myeloma.

(J) Lymphomas (except Hodgkin's disease).

(K) Cancer of the bile ducts.

(L) Cancer of the gall bladder.

(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

(N) Cancer of the salivary gland.

(O) Cancer of the urinary tract.

(P) Bronchiolo-alveolar carcinoma.

(Q) Cancer of the bone.

(R) Cancer of the brain.

(S) Cancer of the colon.

(T) Cancer of the lung.

(U) Cancer of the ovary.

(3) For the purposes of this subsection:

(A) The term ''radiation-exposed veteran'' means (i) a veteran who, while serving on active duty, participated in a radiation-risk activity, or (ii) an individual who, while a member of a reserve component of the Armed Forces, participated in a radiation-risk activity during a period of active duty for training or inactive duty training.

(B) The term ''radiation-risk activity'' means any of the following:

(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device (without regard to whether the nation conducting the test was the United States or another nation).

(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Secretary) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.

(iv) Service in a capacity which, if performed as an employee of the Department of Energy, would qualify the individual for inclusion as a member of the Special Exposure Cohort under section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384*l*(14)).

(4) A radiation-exposed veteran who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of compensation to which that veteran is entitled by reason of paragraph (1), but there shall be deducted from payment of such compensation the amount of the payment under that Act.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1120, § 312; Pub. L. 86–187, Aug. 25, 1959, 73 Stat. 418; Pub. L. 86–188, Aug. 25, 1959, 73 Stat. 418; Pub. L. 87–645, § 3, Sept. 7, 1962, 76 Stat. 442; Pub. L. 91–376, § 3(a), (b), Aug. 12, 1970, 84 Stat. 788, 789; Pub. L. 97–37, § 4(a), Aug. 14, 1981, 95 Stat. 936; Pub. L. 98–223, title I, §§ 101(c), 111, Mar. 2, 1984, 98 Stat. 38, 40; Pub. L. 99–576, title I, § 108(a), Oct. 28, 1986, 100 Stat. 3252; Pub. L. 100–321, § 2(a), May 20, 1988, 102 Stat. 485; Pub. L. 100–322, title III, § 312, May 20, 1988, 102 Stat. 534; renumbered § 1112 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title I, §§ 104(a), 105, Aug. 14, 1991, 105 Stat. 415; Pub. L. 102–578, § 2(a), Oct. 30, 1992, 106 Stat. 4774; Pub. L. 103–446, title V, § 501(a), Nov. 2, 1994, 108 Stat. 4663; Pub. L. 106–117, title V, § 503, Nov. 30, 1999, 113 Stat. 1575; Pub. L. 108–183, title II, § 201, Dec. 16, 2003, 117 Stat. 2656; Pub. L. 108–454, title III,

§§ 302(a), 306(a), (b), Dec. 10, 2004, 118 Stat. 3610, 3612.)

REFERENCES IN TEXT

The Radiation Exposure Compensation Act, referred to in subsec. (c)(4), is Pub. L. 101–426, Oct. 15, 1990, 104 Stat. 920, as amended, which is set out as a note under section 2210 of Title 42, The Public Health and Welfare.

AMENDMENTS

2004—Subsec. (c)(2)(Q) to (U). Pub. L. 108–454, § 306(a), added subpars. (Q) to (U).

Subsec. (c)(3)(B)(iv). Pub. L. 108–454, § 306(b), added cl. (iv).

Subsec. (c)(4). Pub. L. 108–454, § 302(a), added par. (4).

2003—Subsec. (b). Pub. L. 108–183 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

''(1) avitaminosis,

''(2) beriberi (including beriberi heart disease),

''(3) chronic dysentery,

''(4) helminthiasis,

''(5) malnutrition (including optic atrophy associated with malnutrition),

''(6) pellagra,

''(7) any other nutritional deficiency,

''(8) psychosis,

''(9) any of the anxiety states,

''(10) dysthymic disorder (or depressive neurosis),

''(11) organic residuals of frostbite, if the Secretary determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite,

''(12) post-traumatic osteoarthritis,

''(13) peripheral neuropathy except where directly related to infectious causes,

''(14) irritable bowel syndrome, or

''(15) peptic ulcer disease,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.''

1999—Subsec. (c)(2)(P). Pub. L. 106–117 added subpar. (P).

1994—Subsec. (c)(3)(B)(i). Pub. L. 103–446 inserted before period at end ''(without regard to whether the nation conducting the test was the United States or another nation)''.

1992—Subsec. (c)(1). Pub. L. 102–578, § 2(a)(1), struck out ''to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection)'' after ''radiation-exposed veteran''.

Subsec. (c)(2)(N), (O). Pub. L. 102–578, § 2(a)(2), added subpars. (N) and (O).

Subsec. (c)(3), (4). Pub. L. 102–578, § 2(a)(3), (4), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity.''

1991—Pub. L. 102–83, § 5(a), renumbered section 312 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313'' in introductory provisions.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313'' in introductory provisions.

Subsec. (b)(11). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c)(1). Pub. L. 102–86, § 105(1), amended subsec. (c)(1) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''during active military, naval, or air service'' for ''during the veteran's service on active duty'' and ''during a period'' for ''during the period''.

Pub. L. 102–83, § 5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313''.

Subsec. (c)(3). Pub. L. 102–86, § 104(a), amended subsec. (c)(3) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by striking out before period at end '', except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia)''.

Subsec. (c)(4)(A). Pub. L. 102–86, § 105(2), amended subsec. (c)(4)(A) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by inserting ''(i)'' after ''means'' and adding cl. (ii).

Subsec. (c)(4)(B)(iii). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Subsec. (b)(13) to (15). Pub. L. 100–322 added pars. (13) to (15).

Subsec. (c). Pub. L. 100–321 added subsec. (c).

1986—Subsec. (b)(11), (12). Pub. L. 99–576 added pars. (11) and (12).

1984—Subsec. (a)(1) to (5). Pub. L. 98–223, § 101(c), substituted ''percent'' for ''per centum''.

Subsec. (b). Pub. L. 98–223, § 111, added par. (10).

Pub. L. 98–223, § 101(c), substituted ''percent'' for ''per centum'' in provision following par. (10).

1981—Subsecs. (b), (c). Pub. L. 97–37, § 4(a)(1), (2), redesignated subsec. (c) as (b) and generally revised structure so as to include anxiety states as a listed disease, and exclude the enumerated armed conflicts and resulting treatment incurred. Former subsec. (b), relating to treatment as a prisoner of war as deemed in violation of the Geneva Conventions of 1929 and 1949, was struck out.

1970—Pub. L. 91–376 inserted reference to disabilities in section catchline, designated existing provisions as subsec. (a), and added subsecs. (b) and (c).

1962—Pub. L. 87–645 substituted ''seven years'' for ''three years'' in par. (4).

1959—Pub. L. 86–188 inserted par. (5).

Pub. L. 86–187 substituted ''three years'' for ''two years'' in par. (4).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title III, § 302(c), Dec. 10, 2004, 118 Stat. 3610, provided that: ''Paragraph (4) of section 1112(c) of title 38, United States Code, as added by subsection (a), shall take effect with respect to compensation payments for months beginning after March 26, 2002. Subsection (c) of section 1310 of such title, as added by subsection (b), shall take effect with respect to dependency and indemnity compensation payments for months beginning after March 26, 2002.''

Pub. L. 108–454, title III, § 306(c), Dec. 10, 2004, 118 Stat. 3612, provided that: ''The amendments made by this section [amending this section] shall take effect as of March 26, 2002.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2(b) of Pub. L. 102–578 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1992.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 104(b) of Pub. L. 102–86 provided that: ''No benefit may be paid by reason of the amendment made by subsection (a) [amending this section] for any period before the date of the enactment of this Act [Aug. 14, 1991].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 2(b) of Pub. L. 100–321 provided that: ''Subsection (c) of section 312 [now 1112] of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 108(b) of Pub. L. 99–576 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 1986.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 101(c) of Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

Section 114 of Pub. L. 98–223 provided that: ''The amendments made by this part [part B (§§ 111–114) of title I of Pub. L. 98–223, amending this section and sections 314 and 3011 [now 1114 and 5111] of this title] shall take effect as of October 1, 1983.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 4(b) of Pub. L. 97–37 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1981.''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4 of Pub. L. 87–645 provided that: ''This Act [amending this section and sections 314 and 3203 [now 1114 and 5503] of this title and enacting provisions set out as a note under section 1114 of this title] shall take effect on the first day of the first calendar month which begins after the date of enactment of this Act [Sept. 7, 1962] but no payments shall be made by reason of this Act for any period before such effective date. The increased rate of compensation payable to any veteran entitled thereto on such first day shall be further increased, for such month only, in an amount equal to three times the monthly increase provided for such veteran by the amendments made by this Act.''

§ 1113. Presumptions rebuttable

(a) Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of any of the diseases or disabilities within the purview of section 1112, 1116, 1117, or 1118 of this title, has been suffered between the date of separation from service and the onset of any such diseases or disabilities, or the disability is due to the veteran's own willful misconduct, service-connection pursuant to section 1112, 1116, or 1118 of this title, or payments of compensation pursuant to section 1117 of this title, will not be in order.

(b) Nothing in section 1112, 1116, 1117, or 1118 of this title, subsection (a) of this section, or section 5 of Public Law 98–542 (38 U.S.C. 1154 note) shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1120, § 313; Pub. L. 102–4, § 2(b), Feb. 6, 1991, 105 Stat. 13; renumbered § 1113 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title I, § 106(b), title V, § 501(b)(1), Nov. 2, 1994, 108 Stat. 4651, 4663; Pub. L. 105–277, div. C, title XVI, § 1602(b), Oct. 21, 1998, 112 Stat. 2681–744.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 substituted ''1117, or 1118'' for ''or 1117'' and '', 1116, or 1118'' for ''or 1116''.

Subsec. (b). Pub. L. 105–277, § 1602(b)(1), substituted ''1117, or 1118'' for ''or 1117''.

1994—Subsec. (a). Pub. L. 103–446, § 106(b), inserted ''or disabilities'' after ''diseases'' in two places, substituted ''purview of section 1112, 1116, or 1117'' for ''purview of section 1112 or 1116'', and inserted '', or payments of compensation pursuant to section 1117 of this title,'' before ''will not''.

Subsec. (b). Pub. L. 103–446, § 501(b)(1), substituted ''title,'' for ''title or'' and inserted '', or section 5 of Public Law 98–542 (38 U.S.C. 1154 note)'' after ''of this section''.

Pub. L. 103–446, § 106(b)(1), substituted ''section 1112, 1116, or 1117'' for ''section 1112 or 1116''.

1991—Pub. L. 102–83, § 5(a), renumbered section 313 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1112 or 1116'' for ''312 or 316'' wherever appearing.

Pub. L. 102–4 inserted ''or 316'' after ''section 312'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 501(b)(2) of Pub. L. 103–446 provided that: ''The amendments made by paragraph (1) [amending this section] shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act [Nov. 2, 1994].''

§ 1114. Rates of wartime disability compensation

For the purposes of section 1110 of this title—

(a) if and while the disability is rated 10 percent the monthly compensation shall be $106;

(b) if and while the disability is rated 20 percent the monthly compensation shall be $205;

(c) if and while the disability is rated 30 percent the monthly compensation shall be $316;

(d) if and while the disability is rated 40 percent the monthly compensation shall be $454;

(e) if and while the disability is rated 50 percent the monthly compensation shall be $646;

(f) if and while the disability is rated 60 percent the monthly compensation shall be $817;

(g) if and while the disability is rated 70 percent the monthly compensation shall be $1,029;

(h) if and while the disability is rated 80 percent the monthly compensation shall be $1,195;

(i) if and while the disability is rated 90 percent the monthly compensation shall be $1,344;

(j) if and while the disability is rated as total the monthly compensation shall be $2,239;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, or, in the case of a woman veteran, has suffered the anatomical loss of 25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or has received radiation treatment of breast tissue, the rate of compensation therefor shall be $82 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed $2,785 per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (*l*) through (n) of this section, the rate of compensation shall be increased by $82 per month for each such loss or loss of use, but in no event to exceed $3,907 per month;

(*l*) if the veteran, as the result of service-connected disability, has suffered the anatom-

ical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $2,785;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be $3,073;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, or has suffered blindness without light perception in both eyes, the monthly compensation shall be $3,496;

(*o*) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (*l*) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 percent or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be $3,907;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Secretary may allow the next higher rate or an intermediate rate, but in no event in excess of $3,907. In the event the veteran has suffered service-connected blindness with 5/200 visual acuity or less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 30 percent disabling, the Secretary shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear or service-connected anatomical loss or loss of use of one hand or one foot, the Secretary shall allow the next intermediate rate, but in no event in excess of $3,907. In the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 10 or 20 percent disabling, the Secretary shall allow the next intermediate rate, but in no event in excess of $3,907. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Secretary shall allow the next higher rate or intermediate rate, but in no event in excess of $3,907. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded down to the nearest dollar, between the two rates concerned;

[(q) Repealed. Pub. L. 90–493, § 4(a), Aug. 19, 1968, 82 Stat. 809.]

(r) Subject to section 5503(c) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (*o*) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (*o*) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the rate of $1,677; or

(2) if the veteran, in addition to such need for regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of $2,497, in lieu of the allowance authorized in clause (1) of this subsection, if the Secretary finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Department or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician. For the purposes of section 1134 of this title, such allowance shall be considered as additional compensation payable for disability.

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 percent or more, or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly com-

pensation shall be $2,506. For the purpose of this subsection, the requirement of ''permanently housebound'' will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1120, § 314; Pub. L. 85–782, § 2, Aug. 27, 1958, 72 Stat. 936; Pub. L. 86–663, § 1, July 14, 1960, 74 Stat. 528; Pub. L. 87–645, §§ 1(a), 2(a), Sept. 7, 1962, 76 Stat. 441; Pub. L. 88–20, § 1, May 15, 1963, 77 Stat. 17; Pub. L. 88–22, § 1, May 15, 1963, 77 Stat. 18; Pub. L. 89–311, §§ 1(a), 3(d), (e), Oct. 31, 1965, 79 Stat. 1154, 1155; Pub. L. 90–77, title IV, § 401, Aug. 31, 1967, 81 Stat. 190; Pub. L. 90–493, §§ 1(a), 4(a), Aug. 19, 1968, 82 Stat. 808, 809; Pub. L. 91–376, § 1(a), Aug. 12, 1970, 84 Stat. 787; Pub. L. 92–328, title I, § 101(a), June 30, 1972, 86 Stat. 393; Pub. L. 93–295, title I, § 101(a), May 31, 1974, 88 Stat. 181; Pub. L. 94–71, title I, § 101(a), Aug. 5, 1975, 89 Stat. 395; Pub. L. 94–433, title I, § 101(a), title IV, §§ 401(4), (5), 404(6)–(8), Sept. 30, 1976, 90 Stat. 1374, 1377, 1378; Pub. L. 95–117, title I, § 101(a), Oct. 3, 1977, 91 Stat. 1063; Pub. L. 95–479, title I, § 101(a)–(d), Oct. 18, 1978, 92 Stat. 1560, 1561; Pub. L. 96–128, title I, §§ 101(a), 104, 105, Nov. 28, 1979, 93 Stat. 982, 984; Pub. L. 96–385, title I, § 101(a), Oct. 7, 1980, 94 Stat. 1528; Pub. L. 97–66, title I, §§ 101(a), 104, Oct. 17, 1981, 95 Stat. 1026, 1027; Pub. L. 97–253, title IV, §§ 404(a), 405(b), Sept. 8, 1982, 96 Stat. 803; Pub. L. 97–306, title I, §§ 101(a), 107, 111(a), (b), Oct. 14, 1982, 96 Stat. 1429, 1431, 1432; Pub. L. 98–223, title I, §§ 101(a), 112, Mar. 2, 1984, 98 Stat. 37, 40; Pub. L. 98–543, title I, § 101(a), Oct. 24, 1984, 98 Stat. 2735; Pub. L. 99–238, title I, § 101(a), Jan. 13, 1986, 99 Stat. 1765; Pub. L. 99–576, title I, §§ 101(a), 109(b), Oct. 28, 1986, 100 Stat. 3250, 3253; Pub. L. 100–227, title I, § 101(a), Dec. 31, 1987, 101 Stat. 1552; Pub. L. 100–687, div. B, title XI, § 1101(a), Nov. 18, 1988, 102 Stat. 4123; Pub. L. 101–237, title I, § 101(a), Dec. 18, 1989, 103 Stat. 2062; Pub. L. 102–3, § 2(a), Feb. 6, 1991, 105 Stat. 7; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1114 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–152, § 2(a), Nov. 12, 1991, 105 Stat. 985; Pub. L. 103–78, § 1, Aug. 13, 1993, 107 Stat. 767; Pub. L. 103–140, § 2, Nov. 11, 1993, 107 Stat. 1485; Pub. L. 105–98, § 2(a), Nov. 19, 1997, 111 Stat. 2155; Pub. L. 106–118, § 2(a), Nov. 30, 1999, 113 Stat. 1601; Pub. L. 106–419, title III, § 302, Nov. 1, 2000, 114 Stat. 1853; Pub. L. 107–94, § 2(a), Dec. 21, 2001, 115 Stat. 900; Pub. L. 107–103, title II, § 204(b)(1), Dec. 27, 2001, 115 Stat. 990; Pub. L. 107–330, title I, § 102, title III, § 309(a), Dec. 6, 2002, 116 Stat. 2821, 2829; Pub. L. 108–454, title III, § 307(a), Dec. 10, 2004, 118 Stat. 3612.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454, § 307(a)(1), substituted ''$106'' for ''$104''.

Subsec. (b). Pub. L. 108–454, § 307(a)(2), substituted ''$205'' for ''$201''.

Subsec. (c). Pub. L. 108–454, § 307(a)(3), substituted ''$316'' for ''$310''.

Subsec. (d). Pub. L. 108–454, § 307(a)(4), substituted ''$454'' for ''$445''.

Subsec. (e). Pub. L. 108–454, § 307(a)(5), substituted ''$646'' for ''$633''.

Subsec. (f). Pub. L. 108–454, § 307(a)(6), substituted ''$817'' for ''$801''.

Subsec. (g). Pub. L. 108–454, § 307(a)(7), substituted ''$1,029'' for ''$1,008''.

Subsec. (h). Pub. L. 108–454, § 307(a)(8), substituted ''$1,195'' for ''$1,171''.

Subsec. (i). Pub. L. 108–454, § 307(a)(9), substituted ''$1,344'' for ''$1,317''.

Subsec. (j). Pub. L. 108–454, § 307(a)(10), substituted ''$2,239'' for ''$2,193''.

Subsec. (k). Pub. L. 108–454, § 307(a)(11), substituted ''$82'' for ''$81'' in two places and substituted ''$2,785'' and ''$3,907'' for ''$2,728'' and ''$3,827'', respectively.

Subsec. (*l*). Pub. L. 108–454, § 307(a)(12), substituted ''$2,785'' for ''$2,728''.

Subsec. (m). Pub. L. 108–454, § 307(a)(13), substituted ''$3,073'' for ''$3,010''.

Subsec. (n). Pub. L. 108–454, § 307(a)(14), substituted ''$3,496'' for ''$3,425''.

Subsecs. (*o*), (p). Pub. L. 108–454, § 307(a)(15), substituted ''$3,907'' for ''$3,827'' wherever appearing.Subsec. (r). Pub. L. 108–454, § 307(a)(16), substituted ''$1,677'' and ''$2,497'' for ''$1,643'' and ''$2,446'', respectively.

Subsec. (s). Pub. L. 108–454, § 307(a)(17), substituted ''$2,506'' for ''$2,455''.

2002—Subsec. (a). Pub. L. 107–330, § 309(a)(1), substituted ''$104'' for ''$103''.

Subsec. (b). Pub. L. 107–330, § 309(a)(2), substituted ''$201'' for ''$199''.

Subsec. (c). Pub. L. 107–330, § 309(a)(3), substituted ''$310'' for ''$306''.

Subsec. (d). Pub. L. 107–330, § 309(a)(4), substituted ''$445'' for ''$439''.

Subsec. (e). Pub. L. 107–330, § 309(a)(5), substituted ''$633'' for ''$625''.

Subsec. (f). Pub. L. 107–330, § 309(a)(6), substituted ''$801'' for ''$790''.

Subsec. (g). Pub. L. 107–330, § 309(a)(7), substituted ''$1,008'' for ''$995''.

Subsec. (h). Pub. L. 107–330, § 309(a)(8), substituted ''$1,171'' for ''$1,155''.

Subsec. (i). Pub. L. 107–330, § 309(a)(9), substituted ''$1,317'' for ''$1,299''.

Subsec. (j). Pub. L. 107–330, § 309(a)(10), substituted ''$2,193'' for ''$2,163''.

Subsec. (k). Pub. L. 107–330, § 309(a)(11), substituted ''$81'' for ''$80'' in two places and substituted ''$2,728'' and ''$3,827'' for ''$2,691'' and ''$3,775'', respectively.

Pub. L. 107–330, § 102, substituted ''25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or has received radiation treatment of breast tissue'' for ''one or both breasts (including loss by mastectomy)''.

Subsec. (*l*). Pub. L. 107–330, § 309(a)(12), substituted ''$2,728'' for ''$2,691''.

Subsec. (m). Pub. L. 107–330, § 309(a)(13), substituted ''$3,010'' for ''$2,969''.

Subsec. (n). Pub. L. 107–330, § 309(a)(14), substituted ''$3,425'' for ''$3,378''.

Subsecs. (*o*), (p). Pub. L. 107–330, § 309(a)(15), substituted ''$3,827'' for ''$3,775'' wherever appearing.

Subsec. (r). Pub. L. 107–330, § 309(a)(16), substituted ''$1,643'' and ''$2,446'' for ''$1,621'' and ''$2,413'', respectively.

Subsec. (s). Pub. L. 107–330, § 309(a)(17), substituted ''$2,455'' for ''$2,422''.

2001—Subsec. (a). Pub. L. 107–94, § 2(a)(1), substituted ''$103'' for ''$98''.

Subsec. (b). Pub. L. 107–94, § 2(a)(2), substituted ''$199'' for ''$188''.

Subsec. (c). Pub. L. 107–94, § 2(a)(3), substituted ''$306'' for ''$288''.

Subsec. (d). Pub. L. 107–94, § 2(a)(4), substituted ''$439'' for ''$413''.

Subsec. (e). Pub. L. 107–94, § 2(a)(5), substituted ''$625'' for ''$589''.

Subsec. (f). Pub. L. 107–94, § 2(a)(6), substituted ''$790'' for ''$743''.

Subsec. (g). Pub. L. 107–94, § 2(a)(7), substituted ''$995'' for ''$937''.

Subsec. (h). Pub. L. 107–94, § 2(a)(8), substituted ''$1,155'' for ''$1,087''.

Subsec. (i). Pub. L. 107–94, § 2(a)(9), substituted ''$1,299'' for ''$1,224''.

Subsec. (j). Pub. L. 107–94, § 2(a)(10), substituted ''$2,163'' for ''$2,036''.

Subsec. (k). Pub. L. 107–94, § 2(a)(11), substituted ''$80'' for ''$76'' in two places, ''$2,691'' for ''$2,533'', and ''$3,775'' for ''$3,553''.

Subsec. (*l*). Pub. L. 107–94, § 2(a)(12), substituted ''$2,691'' for ''$2,533''.

Subsec. (m). Pub. L. 107–94, § 2(a)(13), substituted ''$2,969'' for ''$2,794''.

Subsec. (n). Pub. L. 107–94, § 2(a)(14), substituted ''$3,378'' for ''$3,179''.

Subsecs. (*o*), (p). Pub. L. 107–94, § 2(a)(15), substituted ''$3,775'' for ''$3,553'' wherever appearing.

Subsec. (r). Pub. L. 107–103 substituted ''section 5503(c)'' for ''section 5503(e)'' in introductory provisions.

Subsec. (r)(1). Pub. L. 107–94, § 2(a)(16), substituted ''$1,621'' for ''$1,525''.

Subsec. (r)(2). Pub. L. 107–94, § 2(a)(16), substituted ''$2,413'' for ''$2,271''.

Subsec. (s). Pub. L. 107–94, § 2(a)(17), substituted ''$2,422'' for ''$2,280''.

2000—Subsec. (k). Pub. L. 106–419 substituted ''has suffered complete organic'' for ''or has suffered complete organic'' and inserted ''or, in the case of a woman veteran, has suffered the anatomical loss of one or both breasts (including loss by mastectomy),'' after ''air and bone conduction,''.

1999—Subsec. (a). Pub. L. 106–118, § 2(a)(1), substituted ''$98'' for ''$95''.

Subsec. (b). Pub. L. 106–118, § 2(a)(2), substituted ''$188'' for ''$182''.

Subsec. (c). Pub. L. 106–118, § 2(a)(3), substituted ''$288'' for ''$279''.

Subsec. (d). Pub. L. 106–118, § 2(a)(4), substituted ''$413'' for ''$399''.

Subsec. (e). Pub. L. 106–118, § 2(a)(5), substituted ''$589'' for ''$569''.

Subsec. (f). Pub. L. 106–118, § 2(a)(6), substituted ''$743'' for ''$717''.

Subsec. (g). Pub. L. 106–118, § 2(a)(7), substituted ''$937'' for ''$905''.

Subsec. (h). Pub. L. 106–118, § 2(a)(8), substituted ''$1,087'' for ''$1,049''.

Subsec. (i). Pub. L. 106–118, § 2(a)(9), substituted ''$1,224'' for ''$1,181''.

Subsec. (j). Pub. L. 106–118, § 2(a)(10), substituted ''$2,036'' for ''$1,964''.

Subsec. (k). Pub. L. 106–118, § 2(a)(11), substituted ''$76'' for ''$75'' in two places and substituted ''$2,533'' and ''$3,553'' for ''$2,443'' and ''$3,426'', respectively.

Subsec. (*l*). Pub. L. 106–118, § 2(a)(12), substituted ''$2,533'' for ''$2,443''.

Subsec. (m). Pub. L. 106–118, § 2(a)(13), substituted ''$2,794'' for ''$2,694''.

Subsec. (n). Pub. L. 106–118, § 2(a)(14), substituted ''$3,179'' for ''$3,066''.

Subsecs. (*o*), (p). Pub. L. 106–118, § 2(a)(15), substituted ''$3,553'' for ''$3,426'' wherever appearing.

Subsec. (r). Pub. L. 106–118, § 2(a)(16), substituted ''$1,525'' and ''$2,271'' for ''$1,471'' and ''$2,190'', respectively.

Subsec. (s). Pub. L. 106–118, § 2(a)(17), substituted ''$2,280'' for ''$2,199''.

1997—Subsec. (a). Pub. L. 105–98, § 2(a)(1), substituted ''$95'' for ''$87''.

Subsec. (b). Pub. L. 105–98, § 2(a)(2), substituted ''$182'' for ''$166''.

Subsec. (c). Pub. L. 105–98, § 2(a)(3), substituted ''$279'' for ''$253''.

Subsec. (d). Pub. L. 105–98, § 2(a)(4), substituted ''$399'' for ''$361''.

Subsec. (e). Pub. L. 105–98, § 2(a)(5), substituted ''$569'' for ''$515''.

Subsec. (f). Pub. L. 105–98, § 2(a)(6), substituted ''$717'' for ''$648''.

Subsec. (g). Pub. L. 105–98, § 2(a)(7), substituted ''$905'' for ''$819''.

Subsec. (h). Pub. L. 105–98, § 2(a)(8), substituted ''$1,049'' for ''$948''.

Subsec. (i). Pub. L. 105–98, § 2(a)(9), substituted ''$1,181'' for ''$1,067''.

Subsec. (j). Pub. L. 105–98, § 2(a)(10), substituted ''$1,964'' for ''$1,774''.

Subsec. (k). Pub. L. 105–98, § 2(a)(11), substituted ''$75'' for ''$70'' in two places and substituted ''$2,443'' and ''$3,426'' for ''$2,207'' and ''$3,093'', respectively.

Subsec. (*l*). Pub. L. 105–98, § 2(a)(12), substituted ''$2,443'' for ''$2,207''.

Subsec. (m). Pub. L. 105–98, § 2(a)(13), substituted ''$2,694'' for ''$2,432''.

Subsec. (n). Pub. L. 105–98, § 2(a)(14), substituted ''$3,066'' for ''$2,768''.

Subsecs. (*o*), (p). Pub. L. 105–98, § 2(a)(15), substituted ''$3,426'' for ''$3,093'' wherever appearing.

Subsec. (r). Pub. L. 105–98, § 2(a)(16), substituted ''$1,471'' and ''$2,190'' for ''$1,328'' and ''$1,978'', respectively.

Subsec. (s). Pub. L. 105–98, § 2(a)(17), substituted ''$2,199'' for ''$1,985''.

1993—Subsec. (a). Pub. L. 103–140, § 2(1), substituted ''$87'' for ''$85''.

Pub. L. 103–78, § 1(1), substituted ''$85'' for ''$83''.

Subsec. (b). Pub. L. 103–140, § 2(2), substituted ''$166'' for ''$162''.

Pub. L. 103–78, § 1(2), substituted ''$162'' for ''$157''.

Subsec. (c). Pub. L. 103–140, § 2(3), substituted ''$253'' for ''$247''.

Pub. L. 103–78, § 1(3), substituted ''$247'' for ''$240''.

Subsec. (d). Pub. L. 103–140, § 2(4), substituted ''$361'' for ''$352''.

Pub. L. 103–78, § 1(4), substituted ''$352'' for ''$342''.

Subsec. (e). Pub. L. 103–140, § 2(5), substituted ''$515'' for ''$502''.

Pub. L. 103–78, § 1(5), substituted ''$502'' for ''$487''.

Subsec. (f). Pub. L. 103–140, § 2(6), substituted ''$648'' for ''$632''.

Pub. L. 103–78, § 1(6), substituted ''$632'' for ''$614''.

Subsec. (g). Pub. L. 103–140, § 2(7), substituted ''$819'' for ''$799''.

Pub. L. 103–78, § 1(7), substituted ''$799'' for ''$776''.

Subsec. (h). Pub. L. 103–140, § 2(8), substituted ''$948'' for ''$924''.

Pub. L. 103–78, § 1(8), substituted ''$924'' for ''$897''.

Subsec. (i). Pub. L. 103–140, § 2(9), substituted ''$1,067'' for ''$1,040''.

Pub. L. 103–78, § 1(9), substituted ''$1,040'' for ''$1,010''.

Subsec. (j). Pub. L. 103–140, § 2(10), substituted ''$1,774'' for ''$1,730''.

Pub. L. 103–78, § 1(10), substituted ''$1,730'' for ''$1,680''.

Subsec. (k). Pub. L. 103–140, § 2(11), substituted ''$2,207'' and ''$3,093'' for ''$2,152'' and ''$3,015'', respectively.

Pub. L. 103–78, § 1(11), which directed the substitution of ''$70'' for ''$68'', was executed by making the substitution in two places to reflect the probable intent of Congress.

Pub. L. 103–78, § 1(11), substituted ''$2,152'' and ''$3,015'' for ''$2,089'' and ''$2,927'', respectively.

Subsec. (*l*). Pub. L. 103–140, § 2(12), substituted ''$2,207'' for ''$2,152''.

Pub. L. 103–78, § 1(12), substituted ''$2,152'' for ''$2,089''.

Subsec. (m). Pub. L. 103–140, § 2(13), substituted ''$2,432'' for ''$2,371''.

Pub. L. 103–78, § 1(13), substituted ''$2,371'' for ''$2,302''.

Subsec. (n). Pub. L. 103–140, § 2(14), substituted ''$2,768'' for ''$2,698''.

Pub. L. 103–78, § 1(14), substituted ''$2,698'' for ''$2,619''.

Subsec. (*o*). Pub. L. 103–140, § 2(15), substituted ''$3,093'' for ''$3,015''.

Pub. L. 103–78, § 1(15), substituted ''$3,015'' for ''$2,927''.

Subsec. (p). Pub. L. 103–140, § 2(15), substituted ''$3,093'' for ''$3,015'' wherever appearing.

Pub. L. 103–78, § 1(15), substituted ''$3,015'' for ''$2,927'' wherever appearing.

Subsec. (r). Pub. L. 103–140, § 2(16), substituted ''$1,328'' for ''$1,295'' in par. (1) and ''$1,978'' for ''$1,928'' in par. (2).

Pub. L. 103–78, § 1(16), substituted ''$1,295'' for ''$1,257'' in par. (1) and ''$1,928'' for ''$1,872'' in par. (2).

Subsec. (s). Pub. L. 103–140, § 2(17), substituted ''$1,985'' for ''$1,935''.

Pub. L. 103–78, § 1(17), substituted ''$1,935'' for ''$1,879''.

1991—Pub. L. 102–83, § 5(a), renumbered section 314 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1110'' for ''310'' in introductory provisions.

Subsec. (a). Pub. L. 102–152, § 2(a)(1), substituted ''$83'' for ''$80''.

Pub. L. 102–3, § 2(a)(1), substituted ''$80'' for ''$76''.

Subsec. (b). Pub. L. 102–152, § 2(a)(2), substituted ''$157'' for ''$151''.

Pub. L. 102–3, § 2(a)(2), substituted ''$151'' for ''$144''.

Subsec. (c). Pub. L. 102–152, § 2(a)(3), substituted ''$240'' for ''$231''.

Pub. L. 102–3, § 2(a)(3), substituted ''$231'' for ''$220''.

Subsec. (d). Pub. L. 102–152, § 2(a)(4), substituted ''$342'' for ''$330''.

Pub. L. 102–3, § 2(a)(4), substituted ''$330'' for ''$314''.

Subsec. (e). Pub. L. 102–152, § 2(a)(5), substituted ''$487'' for ''$470''.

Pub. L. 102–3, § 2(a)(5), substituted ''$470'' for ''$446''.

Subsec. (f). Pub. L. 102–152, § 2(a)(6), substituted ''$614'' for ''$592''.

Pub. L. 102–3, § 2(a)(6), substituted ''$592'' for ''$562''.

Subsec. (g). Pub. L. 102–152, § 2(a)(7), substituted ''$776'' for ''$748''.

Pub. L. 102–3, § 2(a)(7), substituted ''$748'' for ''$710''.

Subsec. (h). Pub. L. 102–152, § 2(a)(8), substituted ''$897'' for ''$865''.

Pub. L. 102–3, § 2(a)(8), substituted ''$865'' for ''$821''.

Subsec. (i). Pub. L. 102–152, § 2(a)(9), substituted ''$1,010'' for ''$974''.

Pub. L. 102–3, § 2(a)(9), substituted ''$974'' for ''$925''.

Subsec. (j). Pub. L. 102–152, § 2(a)(10), substituted ''$1,680'' for ''$1,620''.

Pub. L. 102–3, § 2(a)(10), substituted ''$1,620'' for ''$1,537''.

Subsec. (k). Pub. L. 102–152, § 2(a)(11), substituted ''$68'' for ''$66'' in two places and ''$2,089'' and ''$2,927'' for ''$2,014'' and ''$2,823'', respectively.

Pub. L. 102–3, § 2(a)(11), substituted ''$2,014'' for ''$1,911'' and ''$2,823'' for ''$2,679''.

Subsec. (*l*). Pub. L. 102–152, § 2(a)(12), substituted ''$2,089'' for ''$2,014''.

Pub. L. 102–3, § 2(a)(12), substituted ''$2,014'' for ''$1,911''.

Subsec. (m). Pub. L. 102–152, § 2(a)(13), substituted ''$2,302'' for ''$2,220''.

Pub. L. 102–3, § 2(a)(13), substituted ''$2,220'' for ''$2,107''.

Subsec. (n). Pub. L. 102–152, § 2(a)(14), substituted ''$2,619'' for ''$2,526''.

Pub. L. 102–3, § 2(a)(14), substituted ''$2,526'' for ''$2,397''.

Subsec. (*o*). Pub. L. 102–152, § 2(a)(15), substituted ''$2,927'' for ''$2,823''.

Pub. L. 102–3, § 2(a)(15), substituted ''$2,823'' for ''$2,679''.

Subsec. (p). Pub. L. 102–152, § 2(a)(15), substituted ''$2,927'' for ''$2,823'' wherever appearing.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–3, § 2(a)(15), substituted ''$2,823'' for ''$2,679'' wherever appearing.

Subsec. (r). Pub. L. 102–152, § 2(a)(16), substituted ''$1,257'' for ''$1,212'' in par. (1) and ''$1,872'' for ''$1,805'' in par. (2).

Pub. L. 102–83, § 5(c)(1), substituted ''1134'' for ''334'' in last sentence.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (2).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in penultimate sentence.

Pub. L. 102–40 substituted ''5503(e)'' for ''3203(e)'' in introductory provisions.

Pub. L. 102–3, § 2(a)(16), substituted ''$1,212'' for ''$1,150'' in par. (1) and ''$1,805'' for ''$1,713'' in par. (2).

Subsec. (s). Pub. L. 102–152, § 2(a)(17), substituted ''$1,879'' for ''$1,812''.

Pub. L. 102–3, § 2(a)(17), substituted ''$1,812'' for ''$1,720''.

1989—Subsec. (a). Pub. L. 101–237, § 101(a)(1), substituted ''$76'' for ''$73''.

Subsec. (b). Pub. L. 101–237, § 101(a)(2), substituted ''$144'' for ''$138''.

Subsec. (c). Pub. L. 101–237, § 101(a)(3), substituted ''$220'' for ''$210''.

Subsec. (d). Pub. L. 101–237, § 101(a)(4), substituted ''$314'' for ''$300''.

Subsec. (e). Pub. L. 101–237, § 101(a)(5), substituted ''$446'' for ''$426''.

Subsec. (f). Pub. L. 101–237, § 101(a)(6), substituted ''$562'' for ''$537''.

Subsec. (g). Pub. L. 101–237, § 101(a)(7), substituted ''$710'' for ''$678''.

Subsec. (h). Pub. L. 101–237, § 101(a)(8), substituted ''$821'' for ''$784''.

Subsec. (i). Pub. L. 101–237, § 101(a)(9), substituted ''$925'' for ''$883''.

Subsec. (j). Pub. L. 101–237, § 101(a)(10), substituted ''$1,537'' for ''$1,468''.

Subsec. (k). Pub. L. 101–237, § 101(a)(11), substituted ''$66'' for ''$63'' in two places and substituted ''$1,911'' and ''$2,679'' for ''$1,825'' and ''$2,559'', respectively.

Subsec. (*l*). Pub. L. 101–237, § 101(a)(12), substituted ''$1,911'' for ''$1,825''.

Subsec. (m). Pub. L. 101–237, § 101(a)(13), substituted ''$2,107'' for ''$2,012''.

Subsec. (n). Pub. L. 101–237, § 101(a)(14), substituted ''$2,397'' for ''$2,289''.

Subsecs. (*o*), (p). Pub. L. 101–237, § 101(a)(15), substituted ''$2,679'' for ''$2,559'' wherever appearing.

Subsec. (r). Pub. L. 101–237, § 101(a)(16), substituted ''$1,150'' and ''$1,713'' for ''$1,098'' and ''$1,636'', respectively.

Subsec. (s). Pub. L. 101–237, § 101(a)(17), substituted ''$1,720'' for ''$1,643''.

1988—Subsec. (a). Pub. L. 100–687, § 1101(a)(1), substituted ''$73'' for ''$71''.

Subsec. (b). Pub. L. 100–687, § 1101(a)(2), substituted ''$138'' for ''$133''.

Subsec. (c). Pub. L. 100–687, § 1101(a)(3), substituted ''$210'' for ''$202''.

Subsec. (d). Pub. L. 100–687, § 1101(a)(4), substituted ''$300'' for ''$289''.

Subsec. (e). Pub. L. 100–687, § 1101(a)(5), substituted ''$426'' for ''$410''.

Subsec. (f). Pub. L. 100–687, § 1101(a)(6), substituted ''$537'' for ''$516''.

Subsec. (g). Pub. L. 100–687, § 1101(a)(7), substituted ''$678'' for ''$652''.

Subsec. (h). Pub. L. 100–687, § 1101(a)(8), substituted ''$784'' for ''$754''.

Subsec. (i). Pub. L. 100–687, § 1101(a)(9), substituted ''$883'' for ''$849''.

Subsec. (j). Pub. L. 100–687, § 1101(a)(10), substituted ''$1,468'' for ''$1,411''.

Subsec. (k). Pub. L. 100–687, § 1101(a)(11), substituted ''$1,825'' and ''$2,559'' for ''$1,754'' and ''$2,459'', respectively.

Subsec. (*l*). Pub. L. 100–687, § 1101(a)(12), substituted ''$1,825'' for ''$1,754''.

Subsec. (m). Pub. L. 100–687, § 1101(a)(13), substituted ''$2,012'' for ''$1,933''.

Subsec. (n). Pub. L. 100–687, § 1101(a)(14), substituted ''$2,289'' for ''$2,199''.

Subsecs. (*o*), (p). Pub. L. 100–687, § 1101(a)(15), substituted ''$2,559'' for ''$2,459'' wherever appearing.

Subsec. (r). Pub. L. 100–687, § 1101(a)(16), substituted ''$1,098'' and ''$1,636'' for ''$1,055'' and ''$1,572'', respectively.

Subsec. (s). Pub. L. 100–687, § 1101(a)(17), substituted ''$1,643'' for ''$1,579''.

1987—Subsec. (a). Pub. L. 100–227, § 101(a)(1), substituted ''$71'' for ''$69''.

Subsec. (b). Pub. L. 100–227, § 101(a)(2), substituted ''$133'' for ''$128''.

Subsec. (c). Pub. L. 100–227, § 101(a)(3), substituted ''$202'' for ''$194''.

Subsec. (d). Pub. L. 100–227, § 101(a)(4), substituted ''$289'' for ''$278''.

Subsec. (e). Pub. L. 100–227, § 101(a)(5), substituted ''$410'' for ''$394''.

Subsec. (f). Pub. L. 100–227, § 101(a)(6), substituted ''$516'' for ''$496''.

Subsec. (g). Pub. L. 100–227, § 101(a)(7), substituted ''$652'' for ''$626''.

Subsec. (h). Pub. L. 100–227, § 101(a)(8), substituted ''$754'' for ''$724''.

Subsec. (i). Pub. L. 100–227, § 101(a)(9), substituted ''$849'' for ''$815''.

Subsec. (j). Pub. L. 100–227, § 101(a)(10), substituted ''$1,411'' for ''$1,355''.

Subsec. (k). Pub. L. 100–227, § 101(a)(11), substituted ''$1,754'' and ''$2,459'' for ''$1,684'' and ''$2,360'', respectively.

Subsec. (*l*). Pub. L. 100–227, § 101(a)(12), substituted ''$1,754'' for ''$1,684''.

Subsec. (m). Pub. L. 100–227, § 101(a)(13), substituted ''$1,933'' for ''$1,856''.

Subsec. (n). Pub. L. 100–227, § 101(a)(14), substituted ''$2,199'' for ''$2,111''.

Subsecs. (*o*), (p). Pub. L. 100–227, § 101(a)(15), substituted ''$2,459'' for ''$2,360'' wherever appearing.

Subsec. (r). Pub. L. 100–227, § 101(a)(16), substituted ''$1,055'' and ''$1,572'' for ''$1,013'' and ''$1,509'', respectively.

Subsec. (s). Pub. L. 100–227, § 101(a)(17), substituted ''$1,579'' for ''$1,516''.

1986—Subsec. (a). Pub. L. 99–576, § 101(a)(1), substituted ''$69'' for ''$68''.

Pub. L. 99–238, § 101(a)(1), substituted ''$68'' for ''$66''.

Subsec. (b). Pub. L. 99–576, § 101(a)(2), substituted ''$128'' for ''$126''.

Pub. L. 99–238, § 101(a)(2), substituted ''$126'' for ''$122''.

Subsec. (c). Pub. L. 99–576, § 101(a)(3), substituted ''$194'' for ''$191''.

Pub. L. 99–238, § 101(a)(3), substituted ''$191'' for ''$185''.

Subsec. (d). Pub. L. 99–576, § 101(a)(4), substituted ''$278'' for ''$274''.

Pub. L. 99–238, § 101(a)(4), substituted ''$274'' for ''$266''.

Subsec. (e). Pub. L. 99–576, § 101(a)(5), substituted ''$394'' for ''$388''.

Pub. L. 99–238, § 101(a)(5), substituted ''$388'' for ''$376''.

Subsec. (f). Pub. L. 99–576, § 101(a)(6), substituted ''$496'' for ''$489''.

Pub. L. 99–238, § 101(a)(6), substituted ''$489'' for ''$474''.

Subsec. (g). Pub. L. 99–576, § 101(a)(7), substituted ''$626'' for ''$617''.

Pub. L. 99–238, § 101(a)(7), substituted ''$617'' for ''$598''.

Subsec. (h). Pub. L. 99–576, § 101(a)(8), substituted ''$724'' for ''$713''.

Pub. L. 99–238, § 101(a)(8), substituted ''$713'' for ''$692''.

Subsec. (i). Pub. L. 99–576, § 101(a)(9), substituted ''$815'' for ''$803''.

Pub. L. 99–238, § 101(a)(9), substituted ''$803'' for ''$779''.

Subsec. (j). Pub. L. 99–576, § 101(a)(10), substituted ''$1,355'' for ''$1,335''.

Pub. L. 99–238, § 101(a)(10), substituted ''$1,335'' for ''$1,295''.

Subsec. (k). Pub. L. 99–576, § 101(a)(11), substituted ''$63'', ''$1,684'', and ''$2,360'' for ''$62'', ''$1,659'', and ''$2,325'', respectively.

Pub. L. 99–238, § 101(a)(11), substituted ''$1,659'' and ''$2,325'' for ''$1,609'' and ''$2,255'', respectively.

Subsec. (*l*). Pub. L. 99–576, § 101(a)(12), substituted ''$1,684'' for ''$1,659''.

Pub. L. 99–238, § 101(a)(12), substituted ''$1,659'' for ''$1,609''.

Subsec. (m). Pub. L. 99–576, § 101(a)(13), substituted ''$1,856'' for ''$1,829''.

Pub. L. 99–238, § 101(a)(13), substituted ''$1,829'' for ''$1,774''.

Subsec. (n). Pub. L. 99–576, § 101(a)(14), substituted ''$2,111'' for ''$2,080''.

Pub. L. 99–238, § 101(a)(14), substituted ''$2,080'' for ''$2,017''.

Subsecs. (*o*), (p). Pub. L. 99–576, § 101(a)(15), substituted ''$2,360'' for ''$2,325'' wherever appearing.

Pub. L. 99–238, § 101(a)(15), substituted ''$2,325'' for ''$2,255'' wherever appearing.

Subsec. (r). Pub. L. 99–576, § 101(a)(16), substituted ''$1,013'' and ''$1,509'' for ''$998'' and ''$1,487'', respectively.

Pub. L. 99–238, § 101(a)(16), substituted ''$998'' and ''$1,487'' for ''$968'' and ''$1,442'', respectively.

Subsec. (s). Pub. L. 99–576, § 101(a)(17), substituted ''$1,516'' for ''$1,494''.

Pub. L. 99–238, § 101(a)(17), substituted ''$1,494'' for ''$1,449''.

Subsec. (t). Pub. L. 99–576, § 109(b), struck out subsec. (t) which read as follows:

''(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 percent or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 percent or more, the monthly rate of compensation payable to such veteran shall be increased by $289.

''(2) If a veteran described in paragraph (1) of this subsection receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.''

Pub. L. 99–238, § 101(a)(18), substituted ''$289'' for ''$280'' in par. (1).

1984—Subsec. (a). Pub. L. 98–543, § 101(a)(1), substituted ''$66'' for ''$64''.

Pub. L. 98–223, § 101(a)(1), substituted ''$64'' for ''$62''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (b). Pub. L. 98–543, § 101(a)(2), substituted ''$122'' for ''$118''.

Pub. L. 98–223, § 101(a)(2), substituted ''$118'' for ''$114''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (c). Pub. L. 98–543, § 101(a)(3), substituted ''$185'' for ''$179''.

Pub. L. 98–223, § 101(a)(3), substituted ''$179'' for ''$173''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (d). Pub. L. 98–543, § 101(a)(4), substituted ''$266'' for ''$258''.

Pub. L. 98–223, § 101(a)(4), substituted ''$258'' for ''$249''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (e). Pub. L. 98–543, § 101(a)(5), substituted ''376'' for ''364''.

Pub. L. 98–223, § 101(a)(5), substituted ''$364'' for ''$352''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (f). Pub. L. 98–543, § 101(a)(6), substituted ''$474'' for ''$459''.

Pub. L. 98–223, § 101(a)(6), substituted ''$459'' for ''$443''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (g). Pub. L. 98–543, § 101(a)(7), substituted ''$598'' for ''$579''.

Pub. L. 98–223, § 101(a)(7), substituted ''$579'' for ''$559''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (h). Pub. L. 98–543, § 101(a)(8), substituted ''$692'' for ''$671''.

Pub. L. 98–223, § 101(a)(8), substituted ''$671'' for ''$648''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (i). Pub. L. 98–543, § 101(a)(9), substituted ''$779'' for ''$755''.

Pub. L. 98–223, § 101(a)(9), substituted ''$755'' for ''$729''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (j). Pub. L. 98–543, § 101(a)(10), substituted ''$1,295'' for ''$1,255''.

Pub. L. 98–223, § 101(a)(10), substituted ''$1,255'' for ''$1,213''.

Subsec. (k). Pub. L. 98–543, § 101(a)(11), substituted ''$1,609'' and ''$2,255'' for ''$1,559'' and ''$2,185'', respectively.

Pub. L. 98–223, § 101(a)(11), substituted ''$1,559'' and ''$2,185'' for ''$1,506'' and ''$2,111'', respectively.

Subsec. (*l*). Pub. L. 98–543, § 101(a)(12), substituted ''$1,609'' for ''$1,559''.

Pub. L. 98–223, § 101(a)(12), substituted ''$1,559'' for ''$1,506''.

Subsec. (m). Pub. L. 98–543, § 101(a)(13), substituted ''$1,774'' for ''$1,719''.

Pub. L. 98–223, § 101(a)(13), substituted ''$1,719'' for ''$1,661''.

Subsec. (n). Pub. L. 98–543, § 101(a)(14), substituted ''$2,017'' for ''$1,954''.

Pub. L. 98–223, § 101(a)(14), substituted ''$1,954'' for ''$1,888''.

Subsec. (*o*). Pub. L. 98–543, § 101(a)(15), substituted ''$2,255'' for ''$2,185''.

Pub. L. 98–223, § 101(a)(15), substituted ''$2,185'' for ''$2,111''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Pub. L. 98–223, § 112(a), inserted ''or if the veteran has suffered service-connected total deafness in one ear or bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 40 percent or more disabling and the veteran has also suffered service-connected blindness having only light perception or less,'' after ''5/200 visual acuity or less,''.

Subsec. (p). Pub. L. 98–543, § 101(a)(15), substituted ''$2,255'' for ''$2,185'' in four places.

Pub. L. 98–223, § 101(a)(15), substituted ''$2,185'' for ''$2,111'' in three places.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Pub. L. 98–223, § 112(b)(1), substituted ''30'' for ''40'' in cl. (1).

Pub. L. 98–223, § 112(b)(2), inserted provision authorizing the Administrator to allow the next intermediate rate, but in no event in excess of $2,185, in the event the veteran has suffered service-connected blindness, having only light perception or less, and has also suffered bilateral deafness, and the hearing impairment in either one or both ears is service connected, rated at 10 to 20 percent disabling.

Subsec. (r). Pub. L. 98–543, § 101(a)(16), substituted ''$968'' and ''$1,442'' for ''$938'' and ''$1,397'', respectively.

Pub. L. 98–223, § 101(a)(16), substituted ''$938'' and ''$1,397'' for ''$906'' and ''$1,350'', respectively.

Subsec. (s). Pub. L. 98–543, § 101(a)(17), substituted ''$1,449'' for ''$1,404''.

Pub. L. 98–223, § 101(a)(17), substituted ''$1,404'' for ''$1,357''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum''.

Subsec. (t)(1). Pub. L. 98–543, § 101(a)(18), substituted ''$280'' for ''$271''.

Pub. L. 98–223, § 101(a)(18), substituted ''$271'' for ''$262''.

Pub. L. 98–223, § 101(a)(19), substituted ''percent'' for ''per centum'' in two places.

1982—Subsec. (a). Pub. L. 97–306, §§ 101(a)(1), 107, 108, substituted ''$62'' for ''$58'', and repealed amendment made by Pub. L. 97–253, § 405(b)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(1), (h), eff. Jan. 1, 1983, substituted ''$57'' for ''$58''.

Subsec. (b). Pub. L. 97–306, § 101(a)(2), substituted ''$114'' for ''$107''.

Subsec. (c). Pub. L. 97–306, §§ 101(a)(3), 107, 108, substituted ''$173'' for ''$162'', and repealed amendment made by Pub. L. 97–253, § 405(b)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(2), (h), eff. Jan. 1, 1983, substituted ''$161'' for ''$162''.

Subsec. (d). Pub. L. 97–306, § 101(a)(4), substituted ''$249'' for ''$232''.

Subsec. (e). Pub. L. 97–306, § 101(a)(5), substituted ''$352'' for ''$328''.

Subsec. (f). Pub. L. 97–306, §§ 101(a)(6), 107, 108, substituted ''$443'' for ''$413'', and repealed amendment made by Pub. L. 97–253, § 405(b)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(3), (h), eff. Jan. 1, 1983, substituted ''$412'' for ''$413''.

Subsec. (g). Pub. L. 97–306, § 101(a)(7), substituted ''$559'' for ''$521''.

Subsec. (h). Pub. L. 97–306, §§ 101(a)(8), 107, 108, substituted ''$648'' for ''$604'', and repealed amendment made by Pub. L. 97–253, § 405(b)(4), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(4), (h), eff. Jan. 1, 1983, substituted ''$603'' for ''$604''.

Subsec. (i). Pub. L. 97–306, § 101(a)(9), substituted ''$729'' for ''$679''.

Subsec. (j). Pub. L. 97–306, § 101(a)(10), substituted ''$1,213'' for ''$1,130''.

Subsec. (k). Pub. L. 97–306, §§ 101(a)(11), 107, 108, substituted ''$1,506'' for ''$1,403'' and ''$2,111'' for ''$1,966'', and repealed amendment made by Pub. L. 97–253, § 405(b)(5), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(5), (h), eff. Jan. 1, 1983, substituted ''$61'' for ''$62'', ''$1,402'' for ''$1,403'', ''$61'' for ''$62'', and ''$1,965'' for ''$1,966''.

Subsec. (*l*). Pub. L. 97–306, §§ 101(a)(12), 107, 108, substituted ''$1,506'' for ''$1,403'', and repealed amendment made by Pub. L. 97–253, § 405(b)(6), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(6), (h), eff. Jan. 1, 1983, substituted ''$1,402'' for ''$1,403''.

Subsec. (m). Pub. L. 97–306, §§ 101(a)(13), 107, 108, substituted ''$1,661'' for ''$1,547'', and repealed amendment made by Pub. L. 97–253, § 405(b)(7), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(7), (h), eff. Jan. 1, 1983, substituted ''$1,546'' for ''$1,547''.

Subsec. (n). Pub. L. 97–306, §§ 101(a)(14), 107, 108, 111(a), inserted ''or has suffered blindness without light perception in both eyes,'' after ''anatomical loss of both eyes,'', substituted ''$1,888'' for ''$1,758'', and repealed amendment made by Pub. L. 97–253, § 405(b)(8), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(8), (h), eff. Jan. 1, 1983, substituted ''$1,757'' for ''$1,758''.

Subsec. (*o*). Pub. L. 97–306, §§ 101(a)(15), 107, 108, substituted ''$2,111'' for ''$1,966'', and repealed amendment made by Pub. L. 97–253, § 405(b)(9), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(9), (h), eff. Jan. 1, 1983, substituted ''$1,965'' for ''$1,966''.

Subsec. (p). Pub. L. 97–306, §§ 101(a)(15), 107, 108, 111(b), substituted ''$2,111'' for ''$1,966'' wherever appearing, inserted ''or service-connected anatomical loss or loss of use of one hand or one foot'' after ''in one ear'', and

repealed amendment made by Pub. L. 97–253, § 405(b)(9), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(9), (h), eff. Jan. 1, 1983, substituted ''$1,965'' for ''$1,966'' wherever appearing.

Pub. L. 97–253, § 404(a), inserted ''down'' after ''arithmetic mean, rounded''.

Subsec. (r). Pub. L. 97–306, §§ 101(a)(16), 107, 108, substituted ''$906'' for ''$844'' in par. (1), ''$1,350'' for ''$1,257'' in par. (2), and repealed amendment made by Pub. L. 97–253, § 405(b)(10), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(10), (h), eff. Jan. 1, 1983, substituted ''$843'' for ''$844'' in par. (1), and ''$1,256'' for ''$1,257'' in par. (2).

Subsec. (s). Pub. L. 97–306, §§ 101(a)(17), 107, 108, substituted ''$1,357'' for ''$1,264'', and repealed amendment made by Pub. L. 97–253, § 405(b)(11), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(11), (h), eff. Jan. 1, 1983, substituted ''$1,263'' for ''$1,264''.

Subsec. (t)(1). Pub. L. 97–306, §§ 101(a)(18), 107, 108, substituted ''$262'' for ''$244'', and repealed amendment made by Pub. L. 97–253, § 405(b)(12), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(b)(12), (h), eff. Jan. 1, 1983, substituted ''$243'' for ''$244''.

1981—Subsecs. (a) to (k). Pub. L. 97–66, § 101(a)(1)–(11), increased compensation in subsec. (a) from $54 to $58, subsec. (b) from $99 to $107, subsec. (c) from $150 to $162, subsec. (d) from $206 to $232, subsec. (e) from $291 to $328, subsec. (f) from $367 to $413, subsec. (g) from $434 to $521, subsec. (h) from $503 to $604, subsec. (i) from $566 to $679, subsec. (j) from $1,016 to $1,130, and subsec. (k) from $1,262 to $1,403 and from $1,768 to $1,966.

Subsec. (*l*). Pub. L. 97–66, §§ 101(a)(12), 104(1), substituted ''loss of use of both feet'' for ''loss of use of both hands, or both feet'' and ''$1,403'' for ''$1,262''.

Subsec. (m). Pub. L. 97–66, §§ 101(a)(13), 104(2), substituted ''both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses'' for ''two extremities at a level, or with complications, preventing natural elbow or knee action with prosthesis'' and ''$1,547'' for ''$1,391''.

Subsec. (n). Pub. L. 97–66, §§ 101(a)(14), 104(3), substituted ''or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances,'' for ''of two extremities so near the shoulder or hip as to prevent the use of a prosthetic appliance'' and ''$1,758'' for ''$1,581''.

Subsec. (*o*). Pub. L. 97–66, §§ 101(a)(15), 104(4), substituted ''visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be $1,966'' for ''visual acuity or less, the monthly compensation shall be $1,768''.

Subsec. (p). Pub. L. 97–66, § 101(a)(15), substituted ''$1,966'' for ''$1,768'' in three places.

Subsec. (r). Pub. L. 97–66, § 101(a)(16), substituted ''$844'' for ''$759'' in cl. (1) and ''$1,257'' for ''$1,130'' in cl. (2).

Subsec. (s). Pub. L. 97–66, § 101(a)(17), increased compensation from $1,137 to $1,264.

Subsec. (t)(1). Pub. L. 97–66, § 101(a)(18), increased compensation from $219 to $244.

1980—Subsecs. (a) to (*o*). Pub. L. 96–385, § 101(a)(1)–(15), increased compensation in subsec. (a) from $48 to $54, subsec. (b) from $88 to $99, subsec. (c) from $133 to $150, subsec. (d) from $182 to $206, subsec. (e) from $255 to $291, subsec. (f) from $321 to $367, subsec. (g) from $380 to $434, subsec. (h) from $440 to $503, subsec. (i) from $495 to $566, subsec. (j) from $889 to $1,016, subsec. (k) from $1,104 and $1,547 to $1,262 and $1,768, subsec. (*l*) from $1,104 to $1,262, subsec. (m) from $1,217 to $1,391, subsec. (n) from $1,383 to $1,581, subsec. (*o*) from $1,547 to $1,768.

Subsec. (p). Pub. L. 96–385, § 101(a)(15), substituted ''$1,768'' for ''$1,547'' in three places.

Subsec. (r). Pub. L. 96–385, § 101(a)(16), substituted ''$759'' for ''$664'' in cl. (1) and ''$1,130'' for ''$989'' in cl. (2).

Subsec. (s). Pub. L. 96–385, § 101(a)(17), increased compensation from $995 to $1,137.

Subsec. (t)(1). Pub. L. 96–385, § 101(a)(18), increased compensation from $192 to $219.

1979—Subsecs. (a) to (*o*). Pub. L. 96–128, § 101(a)(1)–(15), increased compensation in subsec. (a) from $44 to $48, subsec. (b) from $80 to $88, subsec. (c) from $121 to $133, subsec. (d) from $166 to $182, subsec. (e) from $232 to $255, subsec. (f) from $292 to $321, subsec. (g) from $346 to $380, subsec. (h) from $400 to $440, subsec. (i) from $450 to $495, subsec. (j) from $809 to $889, subsec. (k) from $56 to $62, from $1,005 to $1,104, and from $1,408 to $1,547, subsec. (*l*) from $1,005 to $1,104, subsec. (m) from $1,107 to $1,217, subsec. (n) from $1,258 to $1,383, and subsec. (*o*) from $1,408 to $1,547.

Subsec. (p). Pub. L. 96–128, §§ 101(a)(15), 105, inserted provisions respecting the establishment of any intermediate rate, and substituted ''$1,547'' for ''$1,408'' wherever appearing.

Subsec. (r). Pub. L. 96–128, §§ 101(a)(16), 104, inserted provisions relating to intermediate rates and struck out reference to subsections (*o*) or (p) of this section in introductory text, substituted ''$664'' for ''$604'' in cl. (1), and substituted ''$989'' for ''$900'' in cl. (2).

Subsec. (s). Pub. L. 96–128, § 101(a)(17), increased compensation from $905 to $995.

Subsec. (t)(1). Pub. L. 96–128, § 101(a)(18), increased compensation from $175 to $192.

1978—Subsecs. (a) to (*o*). Pub. L. 95–479, § 101(a)(1)–(15), increased compensation in subsec. (a) from $41 to $44, subsec. (b) from $75 to $80, in subsec. (c) from $113 to $121, in subsec. (d) from $155 to $166, in subsec. (e) from $216 to $232, in subsec. (f) from $272 to $292, in subsec. (g) from $322 to $346, in subsec. (h) from $373 to $400, in subsec. (i) from $419 to $450, in subsec. (j) from $754 to $809, in subsec. (k) from $937 and $1,312 to $1,005 and $1,408, respectively, in subsec. (*l*) from $937 to $1,005, in subsec. (m) from $1,032 to $1,107, in subsec. (n) from $1,172 to $1,258, and in subsec. (*o*) from $1,312 to $1,408.

Subsec. (p). Pub. L. 95–479, § 101(a)(15), (b), substituted ''$1,408'' for ''$1,312'' in two places, and inserted provision allowing next higher rate or intermediate rate but in no event in excess of $1,408 in event veteran has suffered anatomical loss or loss of use, or a combination thereof, of three extremities.

Subsec. (r). Pub. L. 95–479, § 101(c), raised the monthly aid and attendance allowance from $563 to $604, and inserted provisions relating to need of higher level of care.

Subsec. (s). Pub. L. 95–479, § 101(a)(16), substituted ''$905'' for ''$843''.

Subsec. (t). Pub. L. 95–479, § 101(d), added subsec. (t).

1977—Subsecs. (a) to (p), (r), (s). Pub. L. 95–117 increased compensation in subsec. (a) from $38 to $41, subsec. (b) from $70 to $75, subsec. (c) from $106 to $113, subsec. (d) from $145 to $155, subsec. (e) from $203 to $216, subsec. (f) from $255 to $272, subsec. (g) from $302 to $322, subsec. (h) from $350 to $373, subsec. (i) from $393 to $419, subsec. (j) from $707 to $754, subsec. (k) from $879 and $1,231 to $937 and $1,312, respectively, subsec. (*l*) from $879 to $937, subsec. (m) from $968 to $1,032, subsec. (n) from $1,099 to $1,172, subsec. (*o*) from $1,231 to $1,312, subsec. (p) from $1,231 to $1,312, subsec. (r) from $528 to $563, and subsec. (s) from $791 to $843.

1976—Subsecs. (a) to (*l*). Pub. L. 94–433, § 101(a)(1)–(12), increased compensation in subsec. (a) from $35 to $38, subsec. (b) from $65 to $70, subsec. (c) from $98 to $106, subsec. (d) from $134 to $145, subsec. (e) from $188 to $203, subsec. (f) from $236 to $255, subsec. (g) from $280 to $302, subsec. (h) from $324 to $350, subsec. (i) from $364 to $393, subsec. (j) from $655 to $707, subsec. (k) from $52, $814, and $1,139 to $56, $879, and $1,231, respectively, and subsec. (*l*) from $814 to $879.

Subsec. (m). Pub. L. 94–433, § 101(a)(13), 404(6), increased compensation from $896 to $968 and substituted ''such veteran'' for ''him'', respectively.

Subsec. (n). Pub. L. 94–433, § 101(a)(14), increased compensation from $1,018 to $1,099.

Subsec. (*o*). Pub. L. 94–433, §§ 101(a)(15), 401(4), 404(6), increased compensation from $1,139 to $1,231, struck out ''in combination with total blindness with 5/200 visual acuity or less,'' before ''the monthly compensation'', and substituted ''such veteran'' for ''him'', respectively.

Subsec. (p). Pub. L. 94–433, §§ 101(a)(15), 404(7), increased compensation from $1,139 to $1,231 and struck out '', in his discretion,'' before ''may allow'', respectively.

Subsec. (r). Pub. L. 94–433, §§ 101(a)(16), 401(5), 404(8), increased compensation from $489 to $528 and substituted reference to section ''3203(e)'' for ''3203(f)'' of this title and ''such veteran'' for ''he'', respectively.

Subsec. (s). Pub. L. 94–433, §§ 101(a)(17), 404(8), increased compensation from $732 to $791 and substituted ''such veteran's'' for ''his'' after ''by reason of'' and before ''house'', respectively.

1975—Subsecs. (a) to (p), (r), (s). Pub. L. 94–71 increased compensation in subsec. (a) from $32 to $35, subsec. (b) from $59 to $65, subsec. (c) from $89 to $98, subsec. (d) from $122 to $134, subsec. (e) from $171 to $188, subsec. (f) from $211 to $236, subsec. (g) from $250 to $280, subsec. (h) from $289 to $324, subsec. (i) from $325 to $364, subsec. (j) from $584 to $655, subsec. (k) from $727 and $1,017 to $814 and $1,139 respectively, subsec. (*l*) from $727 to $814, subsec. (m) from $800 to $896, subsec. (n) from $909 to $1,018, subsec. (*o*) from $1,017 to $1,139, subsec. (p) from $1,017 to $1,139, subsec. (r) from $437 to $489, and subsec. (s) from $654 to $732.

1974—Subsecs. (a) to (p), (r), (s). Pub. L. 93–295 increased compensation in subsec. (a) from $28 to $32, subsec. (b) from $51 to $59, subsec. (c) from $77 to $89, subsec. (d) from $106 to $122, subsec. (e) from $149 to $171, subsec. (f) from $179 to $211, subsec. (g) from $212 to $250, subsec. (h) from $245 to $289, subsec. (i) from $275 to $325, subsec. (j) from $495 to $584, subsec. (k) from $47, $616 and $862 to $52, $727 and $1,017, respectively, subsec. (*l*) from $616 to $727, subsec. (m) from $678 to $800, subsec. (n) from $770 to $909, subsec. (*o*) from $862 to $1,017, subsec. (p) from $862 to $1,017, subsec. (r) from $370 to $437, and subsec. (s) from $554 to $654.

1972—Subsecs. (a) to (p), (r), (s). Pub. L. 92–328 increased compensation in subsec. (a) from $25 to $28, subsec. (b) from $46 to $51, subsec. (c) from $70 to $77, subsec. (d) from $96 to $106, subsec. (e) from $135 to $149, subsec. (f) from $163 to $179, subsec. (g) from $193 to $212, subsec. (h) from $223 to $245, subsec. (i) from $250 to $275, subsec. (j) from $450 to $495, subsec. (k) from $560 to $616 and $784 to $862, respectively, subsec. (*l*) from $560 to $616, subsec. (m) from $616 to $678, subsec. (n) from $700 to $770, subsec. (*o*) from $784 to $862, subsec. (p) from $784 to $862, subsec. (r) from $336 to $370, and subsec. (s) from $504 to $554.

1970—Subsecs. (a) to (p), (r), (s). Pub. L. 91–376 increased compensation in subsec. (a) from $23 to $25, subsec. (b) from $43 to $46, subsec. (c) from $65 to $70, subsec. (d) from $89 to $96, subsec. (e) from $122 to $135, subsec. (f) from $147 to $163, subsec. (g) from $174 to $193, subsec. (h) from $201 to $223, subsec. (i) from $226 to $250, subsec. (j) from $400 to $450, subsec. (k) from $500 and $700 to $560 and $784, respectively, subsec. (*l*) from $500 to $560, subsec. (m) from $550 to $616, subsec. (n) from $625 to $700, subsec. (*o*) from $700 to $784, subsec. (p) from $700 to $784, subsec. (r) from $300 to $336, and subsec. (s) from $450 to $504.

1968—Subsecs. (a) to (p). Pub. L. 90–493, § 1(a)(1)–(14), (17), increased compensation in subsec. (a) from $21 to $23, subsec. (b) from $40 to $43, subsec. (c) from $60 to $65, subsec. (d) from $82 to $89, subsec. (e) from $113 to $122, subsec. (f) from $136 to $147, subsec. (g) from $161 to $174, subsec. (h) from $186 to $201, subsec. (i) from $209 to $226, subsec. (j) from $300 to $400, subsec. (k) from $600 and $400 to $700 and $500, respectively, subsec. (*l*) from $400 to $500, subsec. (m) from $450 to $550, subsec. (n) from $525 to $625, subsec. (*o*) from $600 to $700, and subsec. (p) from $600 to $700.

Subsec. (q). Pub. L. 90–493, § 4(a), struck out provision that if the veteran is shown to have had a service-connected disability resulting from an active tuberculous disease, the monthly compensation shall be not less than $67, provided that, in the judgment of the Administrator, the disease has reached a condition of complete arrest.

Subsecs. (r), (s). Pub. L. 90–493, § 1(a)(15), (16), increased compensation in subsec. (r) from $250 to $300, and in subsec. (s) from $350 to $450.

1967—Subsec. (k). Pub. L. 90–77 substituted ''one or more creative organs'' for ''a creative organ'' and ''in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection'' for ''in the event of anatomical loss or loss of use of a creative organ, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction'' and inserted following ''$47 per month'' where initially appearing ''for each such loss or loss of use'', reference to subsec. (s) of this section and limitation of compensation to $400 per month.

1965—Subsecs. (a) to (m). Pub. L. 89–311, § 1(a)(1)–(14), increased compensation in subsec. (a) from $20 to $21, subsec. (b) from $38 to $40, subsec. (c) from $58 to $60, subsec. (d) from $77 to $82, subsec. (e) from $107 to $113, subsec. (f) from $128 to $136, subsec. (g) from $149 to $161, subsec. (h) from $170 to $186, subsec. (i) from $191 to $209, subsec. (j) from $250 to $300, subsec. (k) from $525 to $600, subsec. (*l*) from $340 to $400, subsec. (m) from $390 to $450, and subsec. (n) from $440 to $525.

Subsec. (*o*). Pub. L. 89–311, §§ 1(a)(11), 3(d), increased compensation from $525 to $600 and relaxed requirement of total deafness by requiring only bilateral deafness (if the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling.

Subsec. (p). Pub. L. 89–311, § 3(e), increased from $525 to $600 the allowable maximum rates when service-connected disabilities exceed the requirements for any of the prescribed rates and inserted specific reference to an increase to the next higher rate in the case of service-connected blindness and bilateral deafness and an increase to the next intermediate rate in the case of service-connected total deafness in one ear.

Subsec. (r). Pub. L. 89–311, § 1(a)(15), substituted ''$250'' for ''$200''.

Subsec. (s). Pub. L. 89–311, § 1(a)(16), substituted ''$350'' for ''$290''.

1963—Subsec. (k). Pub. L. 88–22 provided increased compensation for veterans suffering complete organic aphonia with constant inability to communicate by speech.

Pub. L. 88–20 provided increased compensation for veterans suffering deafness of both ears, having absence of air and bone conduction.

1962—Subsecs. (a) to (p). Pub. L. 87–645, § 1(a)(1)–(14), increased monthly compensation in subsec. (a) from $19 to $20, subsec. (b) from $36 to $38, subsec. (c) from $55 to $58, subsec. (d) from $73 to $77, subsec. (e) from $100 to $107, subsec. (f) from $120 to $128, subsec. (g) from $140 to $149, subsec. (h) from $160 to $170, subsec. (i) from $179 to $191, subsec. (j) from $225 to $250, subsec. (k) from $450 to $525, subsec. (*l*) from $309 to $340, subsec. (m) from $359 to $390, subsec. (n) from $401 to $440, and subsec. (*o*) and (p) from $450 to $525.

Subsec. (r). Pub. L. 87–645, §§ 1(a)(15), 2(a), increased monthly compensation from $150 to $200, and substituted '', subject to the limitations of section 3203(f) of this title'' for ''for all periods during which he is not hospitalized at Government expense''.

Subsec. (s). Pub. L. 87–645, § 1(a)(16), increased monthly compensation from $265 to $290.

1960—Subsec. (s). Pub. L. 86–663 added subsec. (s).

1958—Subsec. (r). Pub. L. 85–782 added subsec. (r).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–94, § 7, Dec. 21, 2001, 115 Stat. 902, provided that: ''The amendments made by this Act [amending this section and sections 1115, 1162, 1311, 1313, and 1314 of this title] shall take effect on December 1, 2001.''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–118, §7, Nov. 30, 1999, 113 Stat. 1603, provided that: ''The amendments made by this Act [amending this section and sections 1115, 1162, 1311, 1313, and 1314 of this title] shall take effect on December 1, 1999.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 7 of Pub. L. 105–98 provided that: ''The amendments made by this Act [amending this section and sections 1115, 1162, 1311, 1313, and 1314 of this title] shall take effect on December 1, 1997.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 7 of Pub. L. 103–140 provided that: ''The amendments made by this Act [amending this section and sections 1115, 1162, 1311, 1313, and 1314 of this title] shall take effect on December 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENTS

Section 7 of Pub. L. 102–152 provided that: ''The amendments made by this Act [amending this section and sections 1115, 1162, 1311, 1313, and 1314 of this title] shall take effect on December 1, 1991.''

Section 7 of Pub. L. 102–3 provided that: ''Section 2(b) [set out as a note below] and the amendments made by this Act [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title] shall take effect as of January 1, 1991.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 106 of Pub. L. 101–237 provided that: ''The amendments made by this part [part A (§§ 101–106) of title I of Pub. L. 101–237, amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title] shall take effect on December 1, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1106 of title XI of Pub. L. 100–687 provided that: ''The amendments made by this title [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title, and enacting provisions set out as a note below] shall take effect on December 1, 1988.''

EFFECTIVE DATE OF 1987 AMENDMENT

Section 107 of title I of Pub. L. 100–227 provided that: ''The amendments made by this title [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title and enacting provisions set out as notes under this section and section 101 of this title] shall take effect as of December 1, 1987.''

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 107 of Pub. L. 99–576 provided that: ''The amendments made by sections 101 through 106 [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title] shall take effect on December 1, 1986, except that such amendments shall not take effect unless benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1986, as a result of a determination under section 215(i) of such Act (42 U.S.C 415(i)).''

Amendment by section 109(b) of Pub. L. 99–576 effective Oct. 28, 1986, see section 109(c)(1) of Pub. L. 99–576, set out as a note under section 1160 of this title.

Section 107 of title I of Pub. L. 99–238 provided that: ''The amendments made by this title [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title and enacting provisions set out as a note under this section] shall take effect as of December 1, 1985.''

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 107 of Pub. L. 98–543 provided that: ''Sections 101 through 106 [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title and enacting provisions set out as a note under this section] shall take effect on December 1, 1984.''

Section 107 of Pub. L. 98–223 provided that: ''The amendments made by this part [part A (§§ 101–108) of title I of Pub. L. 98–223, see Tables for classification] shall take effect on April 1, 1984.''

Amendment by section 112 of Pub. L. 98–223 effective Oct. 1, 1983, see section 114 of Pub. L. 98–223, set out as a note under section 1112 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Section 108 of Pub. L. 97–306 provided that: ''The amendments made by this part [part A (§§ 101–108) of title I of Pub. L. 97–306, see Tables for classification] shall take effect on October 1, 1982.''

Section 111(c) of Pub. L. 97–306 provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1982.''

Section 404(c) of Pub. L. 97–253 provided that: ''The amendments made by this section [amending this section and section 315 [now 1115] of this title] shall take effect on October 1, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 701 of Pub L. 97–66 provided that:

''(a) The amendments made by titles I, II, and III [see Tables for classification] shall take effect as of October 1, 1981.

''(b)(1) Except as otherwise provided in this subsection, the amendments made by titles IV, V, and VI [see Tables for classification] shall take effect on the date of the enactment of this Act [Oct. 17, 1981].

''(2) The amendments made by section 401 [amending sections 767 and 777 [now 1967 and 1977] of this title] shall take effect on December 1, 1981.

''(3) The amendments made by section 504 [amending section 1826 [now 3726] of this title] shall take effect as of October 17, 1980.

''(4) The amendments made by section 601(b)(1) [amending section 5010 [now 8110] of this title] shall take effect as of October 1, 1981.

''(5) The amendments made by section 602 [amending section 3203 [now 5503] of this title] shall take effect on the date of the enactment of this Act [Oct. 17, 1981] and shall apply with respect to veterans admitted to a Veterans' Administration hospital or nursing home on or after such date.

''(6) The amendments made by section 603 [amending sections 906 and 1003 [now 2306 and 2403] of this title] shall apply with respect to veterans dying before, on, or after the date of the enactment of this Act [Oct. 17, 1981].''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 601 of Pub. L. 96–385 provided that:

''(a) The amendments made by titles I and II [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title] shall apply only to payments for months beginning after September 30, 1980.

''(b) The amendments made by title III [amending sections 801, 802, 804, and 805 [now 2101, 2102, 2104, and 2105] of this title] and by sections 402, 501, 503 [amending sections 230, 1810 [now 3710], 1811 [now 3711], 1819 [now 3712], 3104 [now 5304], and 3203 [now 5503] of this title], and 506 [amending section 121 of former Title 36, Patriotic Societies and Observances] shall take effect on October 1, 1980.

''(c) The amendments made by section 502 [amending section 906 [now 2306] of this title] shall apply only with respect to individuals who die after September 30, 1980.

''(d) The amendments made by sections 401, 504, 505 [enacting sections 1810, 1819, 3113, and 3305 [now 3710, 3712, 5313, and 5705] of this title and amending sections 1803 and 1811 [now 3703 and 3711] of this title] and 507 [not classified to the Code] shall take effect on the date of the enactment of this Act [Oct. 7, 1980].

''(e) The amendments made by section 508 [amending former sections 4107 and 4109 of this title] shall take effect as of August 26, 1980.''

EFFECTIVE DATE OF 1979 AMENDMENTS

Section 601 of Pub. L. 96–128, as amended by Pub. L. 96–151, title III, § 306(a), Dec. 20, 1979, 93 Stat. 1097, provided that:

''(a)(1) Except as provided in paragraph (2) of this subsection, the amendments made by titles I and II [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title] and the provisions of section 101(b) [set out as a note below] shall take effect as of October 1, 1979.

''(2) With respect to the amendment made by clause (11) of section 101(a), that portion of the amendment amending subsection (k) of section 314 [now 1114] to increase certain monthly rates of compensation [substituting ''$62'' for ''$56'' in two places] shall take effect as of September 1, 1980, and that portion of the amendment amending such subsection to increase certain maximum monthly amounts of compensation [substituting ''$1,104'' for ''$1,005'' and ''$1,547'' for ''$1,408''] shall take effect as of October 1, 1979.

''(b) The amendments made by titles III, IV, and V [see Tables for classification] shall take effect on the date of the enactment of this Act [Nov. 28, 1979].''

[Section 306(b) of Pub. L. 96–151 provided that the amendment made to section 601(a)(2) of Pub. L. 96–128 [substituting ''clause (11)'' for ''clause (1)''], set out as a note above, shall take effect as of Nov. 28, 1979.]

EFFECTIVE DATE OF 1978 AMENDMENT

Section 401 of Pub. L. 95–479 provided that:

''(a) Except as provided in subsection (b), the amendments made by this Act [see Tables for classification] shall take effect on October 1, 1978.

''(b) The amendment made by section 302 [amending section 562 [now 1562] of this title] shall take effect on January 1, 1979.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 501 of Pub. L. 95–117 provided that: ''Except as otherwise provided in this Act, the amendments made by this Act to title 38, United States Code [see Tables for classification], shall become effective on October 1, 1977.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 301 of Pub. L. 94–71 provided that: ''The provisions of this Act [see Tables for classification] shall become effective August 1, 1975.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 401 of Pub. L. 93–295 provided that: ''The provisions of this Act [see Tables for classification] shall become effective on May 1, 1974, except that title III [amending sections 1701 and 3202 [now 3501 and 5502] of this title] shall become effective on the first day of the second calendar month following enactment [May 31, 1974].''

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(a) of Pub. L. 92–328 provided that: ''Sections 101 through 107 of this Act [see Tables for classification] shall take effect on the first day of the second calendar month which begins after the date of enactment [June 30, 1972].''

EFFECTIVE DATE OF 1970 AMENDMENT

Section 9 of Pub. L. 91–376 provided that: ''The first two sections of this Act [amending this section and section 315 [now 1115] of this title and enacting provision set out as a note under this section] take effect July 1, 1970. Sections 4, 5, 6, and 7 [amending sections 103, 3010 [now 5110], and 3104 [now 5304] of this title, and enacting provision set out as a note under section 103 of this title] take effect January 1, 1971.''

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90–493 provided that: ''The compensation payable pursuant to the amendments made by this Act [amending this section] shall be payable beginning with the first day of January 1969.''

Section 4(b) of Pub. L. 90–493 provided that: ''The repeals made by subsection (a) of this section [repealing subsec. (q) of this section and section 356 of this title] shall not apply in the case of any veteran who, on the date of enactment of this Act [Aug. 19, 1968], was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest.''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 9 of Pub. L. 89–311 provided that: ''The amendments made by the first section and sections 2, 3, and 4 of this Act [amending this section and sections 101, 315 [now 1115], 360 [now 1160], 414 [now 1314], and 560 [now 1560] of this title and enacting provisions set out as a note under this section] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Oct. 31, 1965].''

EFFECTIVE DATE OF 1963 AMENDMENTS

Section 2 of Pub. L. 88–22 provided that: ''The amendments made by this Act [amending this section] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [May 15, 1963].''

Section 2 of Pub. L. 88–20 provided that: ''The amendments made by this Act [amending this section] shall take effect on the first day of the second month which begins after the date of its enactment [May 15, 1963].''

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–645 effective first day of first calendar month which begins after Sept. 7, 1962, see section 4 of Pub. L. 87–645, set out as a note under section 1112 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86–663 provided that: ''This Act [amending this section] shall be effective on and after the first day of the second calendar month following the date of its enactment [July 14, 1960].''

EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85–782 provided that the amendment made by that section is effective Jan. 1, 1959.

REPEAL OF TEMPORARY CHANGES IN FISCAL YEAR 1983 COMPENSATION

Section 405 of Pub. L. 97–253 [amending this section and sections 315, 362, 411, 413, and 414 [now 1115, 1162, 1311, 1313, and 1314] of this title and enacting provisions set out as notes under this section] was repealed by Pub. L. 97–306, title I, § 107, Oct. 14, 1982, 96 Stat. 1431. Section 405 of Pub. L. 97–253 had amended those sections relating to compensation to be effective Jan. 1, 1983, in contemplation of the later enactment of a law providing for cost-of-living increases for fiscal year 1983, with the intent that the increases provided for under section 405 of Pub. L. 97–253 be superseded by increases provided for in the later law. Pub. L. 97–306 provided for the anticipated increases and repealed section 405 of Pub. L. 97–253.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

Pub. L. 108–363, §§ 2(a)–(c), 3, Oct. 25, 2004, 118 Stat. 1705, 1706, provided that:

''SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

''(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 2004, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

''(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

''(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

''(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under sections 1115(1) of such title.

''(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

''(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

''(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

''(6) ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.—The dollar amount in effect under section 1311(b) of such title.

''(7) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

''(8) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

''(c) DETERMINATION OF INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2004.

''(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2004, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

''(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

''SEC. 3. PUBLICATION OF ADJUSTED RATES.

''At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2005, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.''

Similar provisions were contained in the following acts:

Pub. L. 108–147, §§ 2(a)–(c), 3, Dec. 3, 2003, 117 Stat. 1885, 1886.

Pub. L. 107–247, §§ 2(a)–(c), 3, Oct. 23, 2002, 116 Stat. 1517, 1518.

Pub. L. 106–413, §§ 2(a)–(c), 3, Nov. 1, 2000, 114 Stat. 1798, 1799.

Pub. L. 105–368, title XI, §§ 1101(a)–(c), 1102, Nov. 11, 1998, 112 Stat. 3366, 3367.

Pub. L. 104–263, § 2(a), (c), Oct. 9, 1996, 110 Stat. 3212.

Pub. L. 104–57, §§ 2(a)–(c), 3, Nov. 22, 1995, 109 Stat. 555, 556.

Pub. L. 103–418, §§ 2(a)–(c), 3, Oct. 25, 1994, 108 Stat. 4336, 4337.

Pub. L. 102–510, § 2(a), (c), Oct. 24, 1992, 106 Stat. 3318, 3319.

ADMINISTRATIVE ADJUSTMENT OF DISABILITY RATES OF CERTAIN PERSONS NOT COVERED BY THIS CHAPTER

Pub. L. 108–363, § 2(d), Oct. 25, 2004, 118 Stat. 1706, provided that: ''The Secretary [of Veterans Affairs] may adjust administratively, consistent with the increases made under subsection (a) [set out above], the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) [set out as a note preceding section 101 of this title] who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.''

Similar provisions were contained in the following acts:

Pub. L. 108–147, § 2(d), Dec. 3, 2003, 117 Stat. 1886.

Pub. L. 107–247, § 2(d), Oct. 23, 2002, 116 Stat. 1518.

Pub. L. 107–94, § 2(b), Dec. 21, 2001, 115 Stat. 901.

Pub. L. 106–413, § 2(d), Nov. 1, 2000, 114 Stat. 1799.

Pub. L. 106–118, § 2(b), Nov. 30, 1999, 113 Stat. 1602.

Pub. L. 105–368, title XI, § 1101(d), Nov. 11, 1998, 112 Stat. 3366.

Pub. L. 105–98, § 2(b), Nov. 19, 1997, 111 Stat. 2156.

Pub. L. 104–263, § 2(b), Oct. 9, 1996, 110 Stat. 3212.

Pub. L. 104–57, § 2(d), Nov. 22, 1995, 109 Stat. 556.

Pub. L. 103–418, § 2(d), Oct. 25, 1994, 108 Stat. 4337.

Pub. L. 102–510, § 2(b), Oct. 24, 1992, 106 Stat. 3318.

Pub. L. 102–152, § 2(b), Nov. 12, 1991, 105 Stat. 986.

Pub. L. 102–3, § 2(b), Feb. 6, 1991, 105 Stat. 8.

Pub. L. 101–237, title I, § 101(b), Dec. 18, 1989, 103 Stat. 2063.

Pub. L. 100–687, div. B, title XI, § 1101(b), Nov. 18, 1988, 102 Stat. 4123.

Pub. L. 100–227, title I, § 101(b), Dec. 31, 1987, 101 Stat. 1553.

Pub. L. 99–576, title I, § 101(b), Oct. 28, 1986, 100 Stat. 3251.

Pub. L. 99–238, title I, § 101(b), Jan. 13, 1986, 99 Stat. 1766.

Pub. L. 98–543, title I, § 101(b), Oct. 24, 1984, 98 Stat. 2736.

Pub. L. 98–223, title I, § 101(b), Mar. 2, 1984, 98 Stat. 38.

Pub. L. 97–306, title I, § 101(b), Oct. 14, 1982, 96 Stat. 1430.

Pub. L. 97–66, title I, § 101(b), Oct. 17, 1981, 95 Stat. 1027.

Pub. L. 96–385, title I, § 101(b), Oct. 7, 1980, 94 Stat. 1529.

Pub. L. 96–128, title I, § 101(b), Nov. 28, 1979, 93 Stat. 983.

Pub. L. 95–479, title I, § 101(e), Oct. 18, 1978, 92 Stat. 1562.

Pub. L. 95–117, title I, § 101(b), Oct. 3, 1977, 91 Stat. 1063.

Pub. L. 94–433, title I, § 101(b), Sept. 30, 1976, 90 Stat. 1374.

Pub. L. 94–71, title I, § 101(b), Aug. 5, 1975, 89 Stat. 395.

Pub. L. 93–295, title I, § 101(b), May 31, 1974, 88 Stat. 181.

Pub. L. 92–328, title I, § 101(b), June 30, 1972, 86 Stat. 393.

Pub. L. 91–376, § 1(b), Aug. 12, 1970, 84 Stat. 788.

Pub. L. 90–493, § 1(b), Aug. 19, 1968, 82 Stat. 809.

Pub. L. 89–311, § 1(b), Oct. 31, 1965, 79 Stat. 1154.

Pub. L. 87–645, § 1(b), Sept. 7, 1962, 76 Stat. 441.

§ 1115. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 1114 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(A) has a spouse but no child, $127;

(B) has a spouse and one or more children, $219 plus $65 for each child in excess of one;

(C) has no spouse but one or more children, $86 plus $65 for each child in excess of one;

(D) has a parent dependent upon such veteran for support, then, in addition to the above amounts, $103 for each parent so dependent;

(E) notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be $241 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

(F) notwithstanding the other provisions of this paragraph, the monthly amount payable on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be $202 for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

(2) If and while rated partially disabled, but not less than 30 percent, in an amount having the same ratio to the amount specified in paragraph (1) of this section as the degree of disability bears to total disability. The amounts payable under this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1121, § 315; Pub. L. 86–499, § 1, June 8, 1960, 74 Stat. 165; Pub. L. 89–137, § 1(b), Aug. 26, 1965, 79 Stat. 576; Pub. L. 89–311, § 2(a), (b), Oct. 31, 1965, 79 Stat. 1154, 1155; Pub. L. 91–376, § 2, Aug. 12, 1970, 84 Stat. 788; Pub. L. 92–328, title I, § 102, June 30, 1972, 86 Stat. 394; Pub. L. 93–295, title I, § 102, May 31, 1974, 88 Stat. 181; Pub. L. 94–71, title I, § 102, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94–433, title I, § 102, title IV, § 404(9)–(11), Sept. 30, 1976, 90 Stat. 1375, 1378; Pub. L. 95–117, title I, § 102, Oct. 3, 1977, 91 Stat. 1064; Pub. L. 95–479, title I, § 102, Oct. 18, 1978, 92 Stat. 1562; Pub. L. 96–128, title I, § 102, Nov. 28, 1979, 93 Stat. 983; Pub. L. 96–385, title I, § 102, Oct. 7, 1980, 94 Stat. 1529; Pub. L. 97–66, title I, § 102, Oct. 17, 1981, 95 Stat. 1027; Pub. L. 97–253, title IV, §§ 404(b), 405(c), Sept. 8, 1982, 96 Stat. 803; Pub. L. 97–306, title I, §§ 102, 107, Oct. 14, 1982, 96 Stat. 1430, 1431; Pub. L. 98–223, title I, § 102, Mar. 2, 1984, 98 Stat. 38; Pub. L. 98–543, title I, § 102, Oct. 24, 1984, 98 Stat. 2736; Pub. L. 99–238, title I, § 102, Jan. 13, 1986, 99 Stat. 1766; Pub. L. 99–576, title I, § 102, Oct. 28, 1986, 100 Stat. 3251; Pub. L. 100–227, title I, § 102, Dec. 31, 1987, 101 Stat. 1553; Pub. L. 100–687, div. B, title XI, § 1102, Nov. 18, 1988, 102 Stat. 4123; Pub. L. 101–237, title I, § 102, Dec. 18, 1989, 103 Stat. 2063; Pub. L. 102–3, § 3, Feb. 6, 1991, 105 Stat. 8; renumbered § 1115 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 3, Nov. 12, 1991, 105 Stat. 986; Pub. L. 103–78, § 2, Aug. 13, 1993, 107 Stat. 768; Pub. L. 103–140, § 3, Nov. 11, 1993, 107 Stat. 1486; Pub. L. 105–98, § 3, Nov. 19, 1997, 111 Stat. 2156; Pub. L. 106–118, § 3, Nov. 30, 1999, 113 Stat. 1602; Pub. L. 107–94, § 3, Dec. 21, 2001, 115 Stat. 901; Pub. L. 107–330, title III, § 309(b), Dec. 6, 2002, 116 Stat. 2830; Pub. L. 108–454, title III, § 307(b), Dec. 10, 2004, 118 Stat. 3613.)

AMENDMENTS

2004—Par. (1)(A). Pub. L. 108–454, § 307(b)(1), substituted ''$127'' for ''$125''.

Par. (1)(B). Pub. L. 108–454, § 307(b)(2), substituted ''$219'' and ''$65'' for ''$215'' and ''$64'', respectively.

Par. (1)(C). Pub. L. 108–454, § 307(b)(3), substituted ''$86'' and ''$65'' for ''$85'' and ''$64'', respectively.

Par. (1)(D). Pub. L. 108–454, § 307(b)(4), substituted ''$103'' for ''$101''.

Par. (1)(E). Pub. L. 108–454, § 307(b)(5), substituted ''$241'' for ''$237''.

Par. (1)(F). Pub. L. 108–454, § 307(b)(6), substituted ''$202'' for ''$198''.

2002—Par. (1)(A). Pub. L. 107–330, § 309(b)(1), substituted ''$125'' for ''$124''.

Par. (1)(B). Pub. L. 107–330, § 309(b)(2), substituted ''$215'' for ''$213''.

Par. (1)(C). Pub. L. 107–330, § 309(b)(3), substituted ''$85'' for ''$84''.

Par. (1)(D). Pub. L. 107–330, § 309(b)(4), substituted ''$101'' for ''$100''.

Par. (1)(E). Pub. L. 107–330, § 309(b)(5), substituted ''$237'' for ''$234''.

Par. (1)(F). Pub. L. 107–330, § 309(b)(6), substituted ''$198'' for ''$196''.

2001—Par. (1)(A). Pub. L. 107–94, § 3(1), substituted ''$124'' for ''$117''.

Par. (1)(B). Pub. L. 107–94, § 3(2), substituted ''$213'' and ''$64'' for ''$201'' and ''$61'', respectively.

Par. (1)(C). Pub. L. 107–94, § 3(3), substituted ''$84'' and ''$64'' for ''$80'' and ''$61'', respectively.

Par. (1)(D). Pub. L. 107–94, § 3(4), substituted ''$100'' for ''$95''.

Par. (1)(E). Pub. L. 107–94, § 3(5), substituted ''$234'' for ''$222''.

Par. (1)(F). Pub. L. 107–94, § 3(6), substituted ''$196'' for ''$186''.

1999—Par. (1)(A). Pub. L. 106–118, § 3(1), substituted ''$117'' for ''$114''.

Par. (1)(B). Pub. L. 106–118, § 3(2), substituted ''$201'' and ''$61'' for ''$195'' and ''$60'', respectively.

Par. (1)(C). Pub. L. 106–118, § 3(3), substituted ''$80'' and ''$61'' for ''$78'' and ''$60'', respectively.

Par. (1)(D). Pub. L. 106–118, § 3(4), substituted ''$95'' for ''$92''.

Par. (1)(E). Pub. L. 106–118, § 3(5), substituted ''$222'' for ''$215''.

Par. (1)(F). Pub. L. 106–118, § 3(6), substituted ''$186'' for ''$180''.

1997—Par. (1)(A). Pub. L. 105–98, § 3(1), substituted ''$114'' for ''$105''.

Par. (1)(B). Pub. L. 105–98, § 3(2), substituted ''$195'' and ''$60'' for ''$178'' and ''$55'', respectively.

Par. (1)(C). Pub. L. 105–98, § 3(3), substituted ''$78'' and ''$60'' for ''$72'' and ''$55'', respectively.

Par. (1)(D). Pub. L. 105–98, § 3(4), substituted ''$92'' for ''$84''.

Par. (1)(E). Pub. L. 105–98, § 3(5), substituted ''$215'' for ''$195''.

Par. (1)(F). Pub. L. 105–98, § 3(6), substituted ''$180'' for ''$164''.

1993—Par. (1)(A). Pub. L. 103–140, § 3(1), substituted ''$105'' for ''$103''.

Pub. L. 103–78, § 2(1), substituted ''$103'' for ''$100''.

Par. (1)(B). Pub. L. 103–140, § 3(2), substituted ''$178'' for ''$174'' and ''$55'' for ''$54''.

Pub. L. 103–78, § 2(2), substituted ''$174'' for ''$169'' and ''$54'' for ''$52''.

Par. (1)(C). Pub. L. 103–140, § 3(3), substituted ''$72'' for ''$71'' and ''$55'' for ''$54''.

Pub. L. 103–78, § 2(3), substituted ''$71'' for ''$69'' and ''$54'' for ''$52''.

Par. (1)(D). Pub. L. 103–140, § 3(4), substituted ''$84'' for ''$82''.

Pub. L. 103–78, § 2(4), substituted ''$82'' for ''$80''.

Par. (1)(E). Pub. L. 103–140, § 3(5), substituted ''$195'' for ''$191''.

Pub. L. 103–78, § 2(5), substituted ''$191'' for ''$185''.

Par. (1)(F). Pub. L. 103–140, § 3(6), substituted ''$164'' for ''$160''.

Pub. L. 103–78, § 2(6), substituted ''$160'' for ''$155''.

1991—Pub. L. 102–83, § 5(a), renumbered section 315 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1114'' for ''314'' in introductory provisions.

Par. (1)(A). Pub. L. 102–152, § 3(1), substituted ''$100'' for ''$96''.

Pub. L. 102–3, § 3(1), substituted ''$96'' for ''$92''.

Par. (1)(B). Pub. L. 102–152, § 3(2), substituted ''$169'' for ''$163'' and ''$52'' for ''$50''.

Pub. L. 102–3, § 3(2), substituted ''$163'' for ''$155'' and ''$50'' for ''$48''.

Par. (1)(C). Pub. L. 102–152, § 3(3), substituted ''$69'' for ''$67'' and ''$52'' for ''$50''.

Pub. L. 102–3, § 3(3), substituted ''$67'' for ''$64'' and ''$50'' for ''$48''.

Par. (1)(D). Pub. L. 102–152, § 3(4), substituted ''$80'' for ''$77''.

Pub. L. 102–3, § 3(4), substituted ''$77'' for ''$74''.

Par. (1)(E). Pub. L. 102–152, § 3(5), substituted ''$185'' for ''$178''.

Pub. L. 102–3, § 3(5), substituted ''$178'' for ''$169''.

Par. (1)(F). Pub. L. 102–152, § 3(6), substituted ''$155'' for ''$149''.

Pub. L. 102–3, § 3(6), substituted ''$149'' for ''$142''.

1989—Par. (1)(A). Pub. L. 101–237, § 102(1), substituted ''$92'' for ''$88''.

Par. (1)(B). Pub. L. 101–237, § 102(2), substituted ''$155'' and ''$48'' for ''$148'' and ''$46'', respectively.

Par. (1)(C). Pub. L. 101–237, § 102(3), substituted ''$64'' and ''$48'' for ''$61'' and ''$46'', respectively.

Par. (1)(D). Pub. L. 101–237, § 102(4), substituted ''$74'' for ''$71''.

Par. (1)(E). Pub. L. 101–237, § 102(5), substituted ''$169'' for ''$161''.

Par. (1)(F). Pub. L. 101–237, § 102(6), substituted ''$142'' for ''$136''.

1988—Par. (1)(A). Pub. L. 100–687, § 1102(1), substituted ''$88'' for ''$85''.

Par. (1)(B). Pub. L. 100–687, § 1102(2), substituted ''$148'' and ''$46'' for ''$143'' and ''$45'', respectively.

Par. (1)(C). Pub. L. 100–687, § 1102(3), substituted ''$61'' and ''$46'' for ''$59'' and ''$45'', respectively.

Par. (1)(D). Pub. L. 100–687, § 1102(4), substituted ''$71'' for ''$69''.

Par. (1)(E). Pub. L. 100–687, § 1102(5), substituted ''$161'' for ''$155''.

Par. (1)(F). Pub. L. 100–687, § 1102(6), substituted ''$136'' for ''$131''.

1987—Par. (1)(A). Pub. L. 100–227, § 102(1), substituted ''$85'' for ''$82''.

Par. (1)(B). Pub. L. 100–227, § 102(2), substituted ''$143'' and ''$45'' for ''$138'' and ''$44'', respectively.

Par. (1)(C). Pub. L. 100–227, § 102(3), substituted ''$59'' and ''$45'' for ''$57'' and ''$44'', respectively.

Par. (1)(D). Pub. L. 100–227, § 102(4), substituted ''$69'' for ''$67''.

Par. (1)(E). Pub. L. 100–227, § 102(5), substituted ''$155'' for ''$149''.

Par. (1)(F). Pub. L. 100–227, § 102(6), substituted ''$131'' for ''$126''.

1986—Par. (1)(A). Pub. L. 99–576, § 102(1), substituted ''$82'' for ''$81''.

Pub. L. 99–238, § 102(1), substituted ''$81'' for ''$79''.

Par. (1)(B). Pub. L. 99–576, § 102(2), substituted ''$138'' and ''$44'' for ''$136'' and ''$43'', respectively.

Pub. L. 99–238, § 102(2), substituted ''$136'' and ''$43'' for ''$132'' and ''$42'', respectively.

Par. (1)(C). Pub. L. 99–576, § 102(3), substituted ''$57'' and ''$44'' for ''$56'' and ''$43'', respectively.

Pub. L. 99–238, § 102(3), substituted ''$56'' and ''$43'' for ''$54'' and ''$42'', respectively.

Par. (1)(D). Pub. L. 99–576, § 102(4), substituted ''$67'' for ''$66''.

Pub. L. 99–238, § 102(4), substituted ''$66'' for ''$64''.

Par. (1)(E). Pub. L. 99–576, § 102(5), substituted ''$149'' for ''$147''.

Pub. L. 99–238, § 102(5), substituted ''$147'' for ''$143''.

Par. (1)(F). Pub. L. 99–576, § 102(6), substituted ''$126'' for ''$124''.

Pub. L. 99–238, § 102(6), substituted ''$124'' for ''$120''.

1984—Pub. L. 98–223, § 102(b), substituted ''percent'' for ''per centum'' in provision preceding par. (1).

Par. (1)(A). Pub. L. 98–543, § 102(1), substituted ''$79'' for ''$77''.

Pub. L. 98–223, § 102(a)(1), substituted ''$77'' for ''$74''.

Par. (1)(B). Pub. L. 98–543, § 102(2), substituted ''$132'' and ''$42'' for ''$128'' and ''$41'', respectively.

Pub. L. 98–223, § 102(a)(2), substituted ''$128'' and ''$41'' for ''$124'' and ''$40'', respectively.

Par. (1)(C). Pub. L. 98–543, § 102(3), substituted ''$54'' and ''$42'' for ''$52'' and ''$41'', respectively.

Pub. L. 98–223, § 102(a)(3), substituted ''$52'' and ''$41'' for ''$50'' and ''$40'', respectively.

Par. (1)(D). Pub. L. 98–543, § 102(4), substituted ''$64'' for ''$62''.

Pub. L. 98–223, § 102(a)(4), substituted ''$62'' for ''$60''.

Par. (1)(E). Pub. L. 98–543, § 102(5), substituted ''$143'' for ''$139''.

Pub. L. 98–223, § 102(a)(5), substituted ''$139'' for ''$134''.

Par. (1)(F). Pub. L. 98–543, § 102(6), substituted ''$120'' for ''$116''.

Pub. L. 98–223, § 102(a)(6), substituted ''$116'' for ''$112''.

Par. (2). Pub. L. 98–223, § 102(b), substituted ''percent'' for ''per centum''.

1982—Par. (1)(A). Pub. L. 97–306, § 102(1), added subpar. (A) and struck out former subpar. (A) which provided $69 for a veteran with a spouse but no child living.

Par. (1)(B). Pub. L. 97–306, §§ 102(1), 107, 108, added subpar. (B), repealed amendment made by Pub. L. 97–253, § 405(c)(1), eff. Oct. 1, 1982, and struck out former subpar. (B) which provided $116 for a veteran with a spouse and one child living.

Pub. L. 97–253, § 405(c)(1), (h), eff. Jan. 1, 1983, substituted ''$115'' for ''$116''.

Par. (1)(C). Pub. L. 97–306, § 102(1), added subpar. (C) and struck out former subpar. (C) which provided $153 for a veteran with a spouse and two children living.

Par. (1)(D). Pub. L. 97–306, §§ 102(1)–(3), 107, 108, redesignated subpar. (H) as (D), in subpar. (D) as so redesignated, substituted ''$60'' for ''$56'', struck out former subpar. (D) which provided $192 for a veteran with a spouse and three or more children living (plus $38 for each living child in excess of three), and repealed amendment made by Pub. L. 97–253, § 405(c)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(c)(2), (h), eff. Jan. 1, 1983, substituted ''$37'' for ''$38'' after ''plus''.

Par. (1)(E). Pub. L. 97–306, § 102(1), (2), (4), redesignated subpar. (I) as (E), substituted ''$134'' for ''$125'', and struck out former subpar. (E) which provided $47 for a veteran with no spouse but one child living.

Par. (1)(F). Pub. L. 97–306, § 102(1), (2), (5), redesignated subpar. (J) as (F), substituted ''$112'' for ''$105'', and struck out former subpar. (F) which provided $86 for a veteran with no spouse but two children living.

Par. (1)(G). Pub. L. 97–306, §§ 102(1), 107, 108, struck out subpar. (G) which provided $123 for a veteran with no spouse but three or more children living (plus $38 for each living child in excess of three), and repealed amendment made by Pub. L. 97–253, § 405(c)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(c)(3), (h), eff. Jan. 1, 1983, substituted ''$37'' for ''$38'' after ''plus''.

Par. (1)(H) to (J). Pub. L. 97–306, § 102(2), redesignated subpars. (H), (I), and (J) as (D), (E), and (F), respectively.

Par. (2). Pub. L. 97–253, § 404(b), substituted provisions that the amounts payable under this paragraph, if not a multiple of $1, be rounded down to the nearest dollar for provisions that such amounts would be adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar.

1981—Par. (1)(A) to (J). Pub. L. 97–66 increased compensation figures as follows: in subpar. (A) from $62 to $69, in subpar. (B) from $104 to $116, in subpar. (C) from $138 to $153, in subpar. (D) from $173 to $192 and from $34 to $38, in subpar. (E) from $42 to $47, in subpar. (F) from

$77 to $86, in subpar (G) from $111 to $123 and from $34 to $38, in subpar. (H) from $50 to $56, in subpar. (I) from $112 to $125, and in subpar. (J) from $94 to $105.

1980—Par. (1)(A) to (J). Pub. L. 96–385, § 102(1)–(10), increased additional compensation in subpar. (A) from $54 to $62, in subpar. (B) from $91 to $104, in subpar. (C) from $121 to $138, in subpar. (D) from $151 and $30 to $173 and $34, respectively, in subpar. (E) from $37 to $42, in subpar. (F) from $67 to $77, in subpar. (G) from $97 and $30 to $111 and $34, respectively, in subpar. (H) from $44 to $50, in subpar. (I) from $98 to $112, and in subpar. (J) from $82 to $94.

1979—Par. (1)(A) to (H). Pub. L. 96–128, § 102(a)(1)–(8), increased additional compensation in subpar. (A) from $49 to $54, in subpar. (B) from $83 to $91, in subpar. (C) from $110 to $121, in subpar. (D) from $137 and $27 to $151 and $30, respectively, in subpar. (E) from $34 to $37, in subpar. (F) from $61 to $67, in subpar. (G) from $88 and $27 to $97 and $30, respectively, and in subpar. (H) from $40 to $44.

Par. (1)(I). Pub. L. 96–128, § 102(a)(9), (b)(1)(A), substituted ''paragraph'' for ''subsection'', ''(i)'' for ''(1)'', ''(ii)'' for ''(2)'', ''$98'' for ''$89'', and ''section'' for ''subsection''.

Par. (1)(J). Pub. L. 96–128, § 102(a)(10), (b)(1)(B), substituted ''paragraph'' for ''subsection'', ''$82'' for ''$75'', and ''section'' for ''subsection''.

Par. (2). Pub. L. 96–128, § 102(b)(2), inserted ''of this section'' after ''(1)''.

1978—Pub. L. 95–479, § 102(b), substituted ''30 per centum'' for ''50 per centum'' in provisions preceding par. (1).

Par. (1). Pub. L. 95–479, § 102(a), substituted $49 for $46 in subpar. (A), $83 for $77 in subpar. (B), $110 for $98 in subpar. (C), $137 and $27 for $120 and $22, respectively, in subpar. (D), $34 for $30 in subpar. (E), $61 for $52 in subpar. (F), $88 and $27 for $77 and $22, respectively, in subpar. (G), $40 for $37 in subpar. (H), $89 for $83 in subpar. (I), and $75 for $70 in subpar. (J).

Par. (2). Pub. L. 95–479, § 102(b), substituted ''30 per centum'' for ''50 per centum''.

1977—Par. (1). Pub. L. 95–117 substituted $46 for $43 in subpar. (A), $77 for $72 in subpar. (B), $98 for $92 in subpar. (C), $120 and $22 for $113 and $21, respectively, in subpar. (D), $30 for $28 in subpar. (E), $52 for $49 in subpar. (F), $77 and $22 for $72 and $21, respectively, in subpar. (G), $37 for $35 in subpar. (H), $83 for $78 in subpar. (I), and $70 for $66 in subpar. (J).

1976—Par. (1). Pub. L. 94–433, § 102, substituted $43 for $40 in subpar. (A), $72 for $67 in subpar. (B), $92 for $85 in subpar. (C), $113 and $21 for $105 and $19, respectively, in subpar. (D), $28 for $26 in subpar. (E), $49 for $45 in subpar. (F), $72 and $21 for $67 and $19, respectively, in subpar. (G), $35 for $32 in subpar. (H), added subpar. (I), and substituted $66 for $61 in subpar. (J), formerly (I), but redesignated (J).

Pub. L. 94–433, §§ 404(9), (10), substituted ''spouse'' for ''wife'' in subpars. (A) through (G) and ''parent dependent upon such veteran'' for ''mother or father, either or both dependent upon him'' in subpar. (H).

Par. (2). Pub. L. 94–433, § 404(11), struck out ''his'' before ''disability bears''.

1975—Par. (1). Pub. L. 94–71 substituted $40 for $36 in subpar. (A), $67 for $61 in subpar. (B), $85 for $77 in subpar. (C), $105 and $19 for $95 and $17, respectively, in subpar. (D), $26 for $24 in subpar. (E), $45 for $41 in subpar. (F), $67 and $19 for $61 and $17, respectively, in subpar. (G), $32 for $29 in subpar. (H) and $61 for $55 in subpar. (I).

1974—Par. (1). Pub. L. 93–295 substituted $36 for $31 in subpar. (A), $61 for $53 in subpar. (B), $77 for $67 in subpar. (C), $95 and $17 for $83 and $15, respectively, in subpar. (D), $24 for $21 in subpar. (E), $41 for $36 in subpar. (F), $61 and $17 for $53 and $15, respectively, in subpar. (G), $29 for $25 in subpar. (H), and $55 for $48 in subpar. (I).

1972—Par. (1). Pub. L. 92–328 substituted $31 for $28 in subpar. (A), $53 for $48 in subpar. (B), $67 for $61 in subpar. (C), $83 and $15 for $75 and $14, respectively, in subpar. (D), $21 for $19 in subpar. (E), $36 for $33 in subpar. (F), $53 and $15 for $48 and $14, respectively, in subpar. (G), $25 for $23 in subpar. (H), and $48 for $44 in subpar. (I).

1970—Par. (1). Pub. L. 91–376 substituted $28 for $25 in subpar. (A), $48 for $43 in subpar. (B), $61 for $55 in subpar. (C), $75 and $14 for $68 and $13, respectively, in subpar. (D), $19 for $17 in subpar. (E), $33 for $30 in subpar. (F), $48 and $14 for $43 and $13, respectively, in subpar. (G), $23 for $21 in subpar. (H), and $44 for $40 in subpar. (I).

1965—Par. (1). Pub. L. 89–311 substituted $25 for $23 in subpar. (A), $43 for $39 in subpar. (B), $55 for $50 in subpar. (C), $68 and $13 for $62 and $12 respectively in subpar. (D), $17 for $15 in subpar. (E), $30 for $27 in subpar. (F), $43 and $13 for $39 and $12 respectively in subpar. (G), and $21 for $19 in subpar. (H), and added subpar. (I).

Pub. L. 89–137 struck out subsec. (b) which prohibited payment of the additional compensation to any veteran during any period he is in receipt of an increased rate of subsistence allowance or education and training allowance on account of a dependent or dependents, and redesignated subsec. (a) as entire section.

1960—Subsec. (a). Pub. L. 86–499 authorized payment of $12 for each living child in excess of three.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENTS

Amendments by section 102 of Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

Amendment by section 404(b) of Pub. L. 97–253 effective Oct. 1, 1982, see section 404(c) of Pub. L. 97–253, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92–328, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–376 effective July 1, 1970, see section 9 of Pub. L. 91–376, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1965 AMENDMENTS

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

Section 2 of Pub. L. 89–137 provided that: ''The foregoing provisions of this Act [amending this section and former section 1504 of this title] shall become effective on the first day of the second calendar month which begins following the date of enactment of this Act [Aug. 26, 1965].''

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86–499 provided that: ''The amendments made by this Act [amending this section] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [June 8, 1960].''

REPEAL

Section 405(c) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

SAVINGS PROVISION

Section 1(c) of Pub. L. 89–137 provided that: ''Any veteran-trainee receiving subsistence allowance on the date of the enactment of this Act [Aug. 26, 1965] while pursuing a course of vocational rehabilitation authorized by chapter 31 of title 38, United States Code [former section 1501 et seq. of this title], shall not have such allowance reduced by reason of the amendments contained in such Act [amending this section and former section 1504 of this title].''

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

§ 1116. Presumptions of service connection for diseases associated with exposure to certain herbicide agents; presumption of exposure for veterans who served in the Republic of Vietnam

(a)(1) For the purposes of section 1110 of this title, and subject to section 1113 of this title—

(A) a disease specified in paragraph (2) of this subsection becoming manifest as specified in that paragraph in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975; and

(B) each additional disease (if any) that (i) the Secretary determines in regulations prescribed under this section warrants a presumption of service-connection by reason of having positive association with exposure to an herbicide agent, and (ii) becomes manifest within the period (if any) prescribed in such regulations in a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and while so serving was exposed to that herbicide agent,

shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(2) The diseases referred to in paragraph (1)(A) of this subsection are the following:

(A) Non-Hodgkin's lymphoma becoming manifest to a degree of disability of 10 percent or more.

(B) Each soft-tissue sarcoma becoming manifest to a degree of disability of 10 percent or more other than osteosarcoma, chondrosarcoma, Kaposi's sarcoma, or mesothelioma.

(C) Chloracne or another acneform disease consistent with chloracne becoming manifest to a degree of disability of 10 percent or more within one year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of disability of 10 percent or more.

(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.

(H) Diabetes Mellitus (Type 2).

(3) For purposes of this section, the term ''herbicide agent'' means a chemical in an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975.

(b)(1) Whenever the Secretary determines, on the basis of sound medical and scientific evidence, that a positive association exists between (A) the exposure of humans to an herbicide agent, and (B) the occurrence of a disease in humans, the Secretary shall prescribe regulations providing that a presumption of service connection is warranted for that disease for the purposes of this section.

(2) In making determinations for the purpose of this subsection, the Secretary shall take into account (A) reports received by the Secretary from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, and (B) all other sound medical and scientific information and analyses available to the Secretary. In evaluating any study for the purpose of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

(3) An association between the occurrence of a disease in humans and exposure to an herbicide agent shall be considered to be positive for the purposes of this section if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

(c)(1)(A) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 3 of the Agent Orange Act of 1991, the Secretary shall determine whether a presumption of service connection is warranted for each disease covered by the report. If the Secretary determines that such a presumption is warranted, the Secretary, not later than 60 days after making the determination, shall issue proposed regulations setting forth the Secretary's determination.

(B) If the Secretary determines that a presumption of service connection is not warranted, the Secretary, not later than 60 days after making the determination, shall publish in the Federal Register a notice of that determination. The notice shall include an explanation of the scientific basis for that determination. If the disease already is included in regulations providing for a presumption of service connection, the Secretary, not later than 60 days after publication of the notice of a determination that the presumption is not warranted, shall issue proposed regulations removing the presumption for the disease.

(2) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

(d) Whenever a disease is removed from regulations prescribed under this section—

(1) a veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) before the effective date of the removal shall continue to be entitled to receive compensation on that basis; and

(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

(e) Subsections (b) through (d) shall cease to be effective on September 30, 2015.

(f) For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, shall be presumed to have been exposed during such service to an herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be presumed to have been exposed during such service to any other chemical compound in an herbicide agent, unless there is affirmative evidence to establish that the veteran was not exposed to any such agent during that service.

(Added Pub. L. 102–4, § 2(a)(1), Feb. 6, 1991, 105 Stat. 11, § 316; renumbered § 1116 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title V, § 505, title XII, § 1201(e)(6), Nov. 2, 1994, 108 Stat. 4664, 4685; Pub. L. 104–275, title V, § 505(b), Oct. 9, 1996, 110 Stat. 3342; Pub. L. 106–419, title IV, § 404(a)(1), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 107–103, title II, § 201(a)(1)(A), (b)–(c)(2)(A), (d)(1), Dec. 27, 2001, 115 Stat. 987, 988.)

REFERENCES IN TEXT

Section 3 of the Agent Orange Act of 1991, referred to in subsecs. (b)(2) and (c)(1)(A), is section 3 of Pub. L. 102–4, which is set out below.

AMENDMENTS

2001—Pub. L. 107–103, § 201(c)(2)(A), amended section catchline generally. Prior to amendment, catchline read as follows: ''Presumptions of service connection for diseases associated with exposure to certain herbicide agents''.

Subsec. (a)(2)(F). Pub. L. 107–103, § 201(a)(1)(A), struck out ''within 30 years after the last date on which the

veteran performed active military, naval, or air service in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975'' before period at end.

Subsec. (a)(2)(H). Pub. L. 107–103, §201(b), added subpar. (H).

Subsec. (a)(3), (4). Pub. L. 107–103, §201(c)(1)(B), redesignated par. (4) as (3). Former par. (3) redesignated as subsec. (f).

Subsec. (e). Pub. L. 107–103, §201(d)(1), substituted ''on September 30, 2015'' for ''10 years after the first day of the fiscal year in which the National Academy of Sciences transmits to the Secretary the first report under section 3 of the Agent Orange Act of 1991''.

Subsec. (f). Pub. L. 107–103, §201(c)(1)(A), (C), redesignated subsec. (a)(3) as (f), substituted ''For purposes of establishing service connection for a disability or death resulting from exposure to a herbicide agent, including a presumption of service-connection under this section, a veteran'' for ''For the purposes of this subsection, a veteran'', and struck out ''and has a disease referred to in paragraph (1)(B) of this subsection'' after ''May 7, 1975,''.

2000—Subsec. (a)(2)(F). Pub. L. 106–419 inserted ''of disability'' after ''to a degree''.

1996—Subsec. (a)(1)(A). Pub. L. 104–275, §505(b)(2), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975'' for ''during the Vietnam era''.

Subsec. (a)(1)(B). Pub. L. 104–275, §505(b)(1), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975,'' for ''during the Vietnam era''.

Subsec. (a)(2)(C), (E), (F). Pub. L. 104–275, §505(b)(2), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975'' for ''during the Vietnam era''.

Subsec. (a)(3). Pub. L. 104–275, §505(b)(1), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975,'' for ''during the Vietnam era''.

Subsec. (a)(4). Pub. L. 104–275, §505(b)(2), substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975'' for ''during the Vietnam era''.

1994—Subsec. (a)(1)(B). Pub. L. 103–446, §1201(e)(6), substituted ''(i)'' for ''(1)'' and ''(ii)'' for ''(2)''.

Subsec. (a)(2)(D) to (G). Pub. L. 103–446, §505, added subpars. (D) to (G).

1991—Pub. L. 102–83, §5(a), renumbered section 316 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, §5(c)(1), substituted ''1110'' for ''310'' and ''1113'' for ''313'' in introductory provisions.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title II, §201(a)(1)(B), Dec. 27, 2001, 115 Stat. 987, provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect January 1, 2002.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Jan. 1, 1997, with no benefit to be paid or provided by reason of such amendment for any period before such date, see section 505(d) of Pub. L. 104–275, set out as a note under section 101 of this title.

REPORT ON TIME LIMIT FOR PRESUMPTION OF CANCER CAUSED BY HERBICIDE AGENT

Pub. L. 107–103, title II, §201(a)(2)–(4), Dec. 27, 2001, 115 Stat. 987, provided that:

''(2) The Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences, not later than six months after the date of the enactment of this Act [Dec. 27, 2001], for the performance of a study to include a review of all available scientific literature on the effects of exposure to an herbicide agent containing dioxin on the development of respiratory cancers in humans and whether it is possible to identify a period of time after exposure to herbicides after which a presumption of service-connection for such exposure would not be warranted. Under the contract, the National Academy of Sciences shall submit a report to the Secretary setting forth its conclusions. The report shall be submitted not later than 18 months after the contract is entered into.

''(3) For a period of six months beginning on the date of the receipt of the report of the National Academy of Sciences under paragraph (2), the Secretary may, if warranted by clear scientific evidence presented in the National Academy of Sciences report, initiate a rulemaking under which the Secretary would specify a limit on the number of years after a claimant's departure from Vietnam after which respiratory cancers would not be presumed to have been associated with the claimant's exposure to herbicides while serving in Vietnam. Any such limit under such a rule may not take effect until 120 days have passed after the publication of a final rule to impose such a limit.

''(4)(A) Subject to subparagraphs (B) and (C), if the Secretary imposes such a limit under paragraph (3), that limit shall be effective only as to claims filed on or after the effective date of that limit.

''(B) In the case of any veteran whose disability or death due to respiratory cancer is found by the Secretary to be service-connected under section 1116(a)(2)(F) of title 38, United States Code, as amended by paragraph (1), such disability or death shall remain service-connected for purposes of all provisions of law under such title notwithstanding the imposition, if any, of a time limit by the Secretary by rulemaking authorized under paragraph (3).

''(C) Subaragraph [sic] (B) does not apply in a case in which—

''(i) the original award of compensation or service connection was based on fraud; or

''(ii) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.''

AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES

Section 3 of Pub. L. 102–4, as amended by Pub. L. 102–83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–86, title V, §503(a), (b)(1), Aug. 14, 1991, 105 Stat. 424, 425; Pub. L. 107–103, title II, §201(d)(2), Dec. 27, 2001, 115 Stat. 988, provided that:

''(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise which is not part of the Federal Government, to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides.

''(b) AGREEMENT.—The Secretary shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the services covered by this section. The Secretary shall seek to enter into such agreement not later than two months after the date of the enactment of the Veterans' Benefits Programs Improvement Act of 1991 [Aug. 14, 1991].

''(c) REVIEW OF SCIENTIFIC EVIDENCE.—Under an agreement between the Secretary and the National Academy of Sciences under this section, the Academy shall review and summarize the scientific evidence, and assess the strength thereof, concerning the association between exposure to an herbicide used in support of the United States and allied military operations in the Republic of Vietnam during the Vietnam era and each disease suspected to be associated with such exposure.

''(d) SCIENTIFIC DETERMINATIONS CONCERNING DISEASES.—(1) For each disease reviewed, the Academy shall determine (to the extent that available scientific data permit meaningful determinations)—

''(A) whether a statistical association with herbicide exposure exists, taking into account the strength of the scientific evidence and the appropriateness of the statistical and epidemiological methods used to detect the association;

''(B) the increased risk of the disease among those exposed to herbicides during service in the Republic of Vietnam during the Vietnam era; and

''(C) whether there exists a plausible biological mechanism or other evidence of a causal relationship between herbicide exposure and the disease.

''(2) The Academy shall include in its reports under subsection (g) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

''(e) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—The Academy shall make any recommendations it has for additional scientific studies to resolve areas of continuing scientific uncertainty relating to herbicide exposure. In making recommendations for further study, the Academy shall consider the scientific information that is currently available, the value and relevance of the information that could result from additional studies, and the cost and feasibility of carrying out such additional studies.

''(f) SUBSEQUENT REVIEWS.—An agreement under subsection (b) shall require the National Academy of Sciences—

''(1) to conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) that became available since the last review of such evidence under this section; and

''(2) to make its determinations and estimates on the basis of the results of such review and all other reviews conducted for the purposes of this section.

''(g) REPORTS.—(1) The agreement between the Secretary and the National Academy of Sciences shall require the Academy to transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives periodic written reports regarding the Academy's activities under the agreement. Such reports shall be submitted at least once every two years (as measured from the date of the first report).

''(2) The first report under this subsection shall be transmitted not later than the end of the 18-month period beginning on the date of the enactment of this Act [Feb. 6, 1991]. That report shall include (A) the determinations and discussion referred to in subsection (d), (B) any recommendations of the Academy under subsection (e), and (C) the recommendation of the Academy as to whether the provisions of each of sections 6 through 9 [set out below] should be implemented by the Secretary. In making its recommendation with respect to each such section, the Academy shall consider the scientific information that is currently available, the value and relevance of the information that could result from implementing that section, and the cost and feasibility of implementing that section. If the Academy recommends that the provisions of section 6 should be implemented, the Academy shall also recommend the means by which clinical data referred to in that section could be maintained in the most scientifically useful way.

''(h) LIMITATION ON AUTHORITY.—The authority to enter into agreements under this section shall be effective for a fiscal year to the extent that appropriations are available.

''(i) SUNSET.—This section shall cease to be effective on October 1, 2014.

''(j) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—If the Secretary is unable within the time period prescribed in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for the purposes of this section with another appropriate scientific organization that is not part of the Government and operates as a not-for-profit entity and that has expertise and objectivity comparable to that of the National Academy of Sciences. If the Secretary enters into such an agreement with another organization, then any reference in this section and in section 1116 [formerly 316] of title 38, United States Code (as added by section 2), to the National Academy of Sciences shall be treated as a reference to the other organization.

''(k) LIABILITY INSURANCE.—(1) The Secretary may provide liability insurance for the National Academy of Sciences or any other contract scientific organization to cover any claim for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission of any person referred to in paragraph (2) in carrying out any of the following responsibilities of the Academy or such other organization, as the case may be, under an agreement entered into with the Secretary pursuant to this section:

''(A) The review, summarization, and assessment of scientific evidence referred to in subsection (c).

''(B) The making of any determination, on the basis of such review and assessment, regarding the matters set out in clauses (A) through (C) of subsection (d)(1), and the preparation of the discussion referred to in subsection (d)(2).

''(C) The making of any recommendation for additional scientific study under subsection (e).

''(D) The conduct of any subsequent review referred to in subsection (f) and the making of any determination or estimate referred to in such subsection.

''(E) The preparation of the reports referred to in subsection (g).

''(2) A person referred to in paragraph (1) is—

''(A) an employee of the National Academy of Sciences or other contract scientific organization referred to in paragraph (1); or

''(B) any individual appointed by the President of the Academy or the head of such other contract scientific organization, as the case may be, to carry out any of the responsibilities referred to in such paragraph.

''(3) The cost of the liability insurance referred to in paragraph (1) shall be made from funds available to carry out this section.

''(4) The Secretary shall reimburse the Academy or person referred to in paragraph (2) for the cost of any judgments (if any) and reasonable attorney's fees and incidental expenses, not compensated by the liability insurance referred to in paragraph (1) or by any other insurance maintained by the Academy, incurred by the Academy or person referred to in paragraph (2), in connection with any legal or administrative proceedings arising out of or in connection with the work to be performed under the agreement referred to in paragraph (1). Reimbursement of the cost of such judgments, attorney's fees, and incidental expenses shall be paid from funds appropriated for such reimbursement or appropriated to carry out this section, but in no event shall any such reimbursement be made from funds authorized pursuant to section 1304 of title 31, United States Code.''

RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM

Section 6 of Pub. L. 102–4, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''(a) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Veterans Affairs shall compile and analyze, on a continuing basis, all clinical data that (1) is obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 1710(e)(1)(A) of title 38, United States Code, and (2) is likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

''(b) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

''(1) the information compiled in accordance with subsection (a);

''(2) the Secretary's analysis of such information;

''(3) a discussion of the types and incidences of disabilities identified by the Department of Veterans Af-

fairs in the case of veterans referred to in subsection (a);

''(4) the Secretary's explanation for the incidence of such disabilities;

''(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary; and

''(6) the Secretary's views on the scientific validity of drawing conclusions from the incidence of such disabilities, as evidenced by the data compiled under subsection (a), about any association between such disabilities and exposure to dioxin or any other toxic substance referred to in section 1710(e)(1)(A) of title 38, United States Code, or between such disabilities and active military, naval, or air service, in the Republic of Vietnam during the Vietnam era.

''(c) FIRST REPORT.—The first report under subsection (b) shall be submitted not later than one year after the effective date of this section [see subsec. (e) of this section].

''(d) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts.

''(e) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

TISSUE ARCHIVING SYSTEM

Section 7 of Pub. L. 102–4 provided that:

''(a) ESTABLISHMENT OF SYSTEM.—Subject to subsections (e) and (f), for the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Secretary of Veterans Affairs shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

''(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

''(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a). The Secretary shall carry out this section in a manner consistent with the privacy rights and interests of the blood and tissue donors.

''(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in subsection (a).

''(e) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts.

''(f) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM

Section 8 of Pub. L. 102–4 provided that:

''(a) ESTABLISHMENT OF PROGRAM.—Subject to subsections (e) and (f), the Secretary of Veterans Affairs shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

''(1) health hazards resulting from exposure to dioxin;

''(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

''(3) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

''(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2), award contracts or furnish financial assistance to non-Government entities for the conduct of studies referred to in subsection (a).

''(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

''(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

''(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences under this Act [Pub. L. 102–4, see Short Title of 1991 Amendments note under section 101 of this title]—

''(A) the Secretary shall consult with the Academy regarding the establishment and administration of the program under subsection (a); and

''(B) the Academy shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program.

''(2) The agreement shall require the Academy to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the Academy considers appropriate regarding any studies reviewed under the agreement.

''(e) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts.

''(f) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

BLOOD TESTING OF CERTAIN VIETNAM-ERA VETERANS

Section 9 of Pub. L. 102–4, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''(a) BLOOD TESTING.—Subject to subsections (d) and (e), in the case of a veteran described in section 1710(e)(1)(A) of title 38, United States Code, who—

''(1) has applied for medical care from the Department of Veterans Affairs; or

''(2) has filed a claim for, or is in receipt of disability compensation under chapter 11 of title 38, United States Code,

the Secretary of Veterans Affairs shall, upon the veteran's request, obtain a sufficient amount of blood serum from the veteran to enable the Secretary to conduct a test of the serum to ascertain the level of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) which may be present in the veteran's body.

''(b) NOTIFICATION OF TEST RESULTS.—Upon completion of such test, the Secretary shall notify the veteran of the test results and provide the veteran a complete explanation as to what, if anything, the results of the test indicate regarding the likelihood of the veteran's exposure to TCDD while serving in the Republic of Vietnam.

''(c) INCORPORATION IN SYSTEM.—The Secretary shall maintain the veteran's blood sample and the results of the test as part of the system required by section 7 [set out above].

''(d) FUNDING.—The authority of the Secretary to carry out this section is effective in any fiscal year only to the extent or in the amount specifically provided in statutory language in appropriations Acts, but such amount shall not exceed $4,000,000 in any fiscal year.

''(e) EFFECTIVE DATE.—(1) This section shall take effect at the end of the 90-day period beginning on the date on which the first report of the National Academy of Sciences under section 3(g) [set out above] is received by the Secretary, except that this section shall not take effect if the Secretary, after receiving that report and before the end of that 90-day period—

''(A) determines that it is not feasible or cost-effective to carry out this section or that carrying out this section would not make a material contribution to the body of scientific knowledge concerning the health effects in humans of herbicide exposure; and

''(B) notifies the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's determination and the reasons therefor.

''(2) In making a determination under this subsection, the Secretary shall give great weight to the views and recommendations of the Academy expressed in that report with respect to the implementation of this section.''

STUDY OF EFFECT OF VIETNAM EXPERIENCE ON HEALTH STATUS OF WOMEN VIETNAM VETERANS

Pub. L. 99–272, title XIX, § 19031, Apr. 7, 1986, 100 Stat. 385, provided that:

''(a) REQUIREMENT FOR EPIDEMIOLOGICAL STUDY.—(1)(A) Except as provided in paragraph (2), the Administrator of Veterans' Affairs shall provide for the conduct of an epidemiological study of any long-term adverse health effects (particularly gender-specific health effects) which have been experienced by women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era and which may have resulted from traumatic experiences during such service, from exposure during such service to phenoxy herbicides (including the herbicide known as Agent Orange), to other herbicides, chemicals, or medications that may have deleterious health effects, or to environmental hazards, or from any other experience or exposure during such service.

''(B) The Administrator may include in the study conducted under this paragraph an evaluation of the means of detecting and treating long-term adverse health effects (particularly gender-specific health effects) found through the study.

''(2)(A) If the Administrator, in consultation with the Director of the Office of Technology Assessment, determines that it is not feasible to conduct a scientifically valid study of an aspect of the matters described in paragraph (1)—

''(i) the Administrator shall promptly submit to the appropriate committees of the Congress a notice of that determination and the reasons for the determination; and

''(ii) the Director, not later than 60 days after the date on which such notice is submitted to the committees, shall submit to such committees a report evaluating and commenting on such determination.

''(B) The Administrator is not required to study any aspect of the matters described in paragraph (1) with respect to which a determination is made and a notice is submitted pursuant to subparagraph (A)(i).

''(C) If the Administrator submits to the Congress notice of a determination made pursuant to subparagraph (A) that it is not scientifically feasible to conduct the study described in paragraph (1)(A), this section (effective as of the date of such notice) shall cease to have effect as if repealed by law.

''(3) The Administrator shall provide for the study to be conducted through contracts or other agreements with private or public agencies or persons.

''(b) APPROVAL OF PROTOCOL.—(1) The study required by subsection (a) shall be conducted in accordance with a protocol approved by the Director of the Office of Technology Assessment.

''(2) Not later than July 1, 1986, the Administrator shall publish a request for proposals for the design of the protocol to be used in conducting the study under this section.

''(3) In considering any proposed protocol for use or approval under this subsection, the Administrator and the Director shall take into consideration—

''(A) the protocol approved under section 307(a)(2)(A)(i) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96–151; 38 U.S.C. 219 note [1116 note]); and

''(B) the experience under the study being conducted pursuant to that protocol.

''(c) OTA REPORTS.—(1) Concurrent with the approval or disapproval of any protocol under subsection (b)(1), the Director shall submit to the appropriate committees of the Congress a report—

''(A) explaining the reasons for the Director's approval or disapproval of the protocol, as the case may be; and

''(B) containing the Director's conclusions regarding the scientific validity and objectivity of the protocol.

''(2) If the Director has not approved a protocol under subsection (b)(1) by the last day of the 180-day period beginning on the date of the enactment of this Act [Apr. 7, 1986], the Director—

''(A) shall, on such day, submit to the appropriate committees of the Congress a report describing the reasons why the Director has not approved such a protocol; and

''(B) shall, each 60 days thereafter until such a protocol is approved, submit to such committees an updated report on the report required by clause (A).

''(d) OTA MONITORING OF COMPLIANCE.—(1) In order to ensure compliance with the protocol approved under

subsection (b)(1), the Director shall monitor the conduct of the study under subsection (a).

''(2)(A) The Director shall submit to the appropriate committees of the Congress, at each of the times specified in subparagraph (B), a report on the Director's monitoring of the conduct of the study pursuant to paragraph (1).

''(B) A report shall be submitted under subparagraph (A)—

''(i) before the end of the 6-month period beginning on the date on which the Director approves the protocol referred to in paragraph (1);

''(ii) before the end of the 12-month period beginning on such date; and

''(iii) annually thereafter until the study is completed or terminated.

''(e) DURATION OF STUDY.—The study conducted pursuant to subsection (a) shall be continued for as long after the date on which the first report is submitted under subsection (f)(1) as the Administrator determines that there is a reasonable possibility of developing, through such study, significant new information on the health effects described in subsection (a)(1).

''(f) REPORTS.—(1) Not later than 24 months after the date of the approval of the protocol pursuant to subsection (b)(1) and annually thereafter, the Administrator shall submit to the appropriate committees of the Congress a report containing—

''(A) a description of the results obtained, before the date of such report, under the study conducted pursuant to subsection (a); and

''(B) any administrative actions or recommended legislation, or both, and any additional comments which the Administrator considers appropriate in light of such results.

''(2) Not later than 90 days after the date on which each report required by paragraph (1) is submitted, the Administrator shall publish in the Federal Register, for public review and comment, a description of any action that the Administrator plans or proposes to take with respect to programs administered by the Veterans' Administration based on—

''(A) the results described in such report;

''(B) the comments and recommendations received on that report; and

''(C) any other available pertinent information.

Each such description shall include a justification or rationale for the planned or proposed action.

''(g) DEFINITIONS.—For the purposes of this section:

''(1) The term 'gender-specific health effects' includes—

''(A) effects on female reproductive capacity and reproductive organs;

''(B) effects on reproductive outcomes;

''(C) effects on female-specific organs and tissues; and

''(D) other effects unique to the physiology of females.

''(2) The term 'Vietnam era' has the meaning given such term in section 101(29) of title 38, United States Code.''

AGENT ORANGE STUDY; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 96–151, title III, § 307, Dec. 20, 1979, 93 Stat. 1097, as amended by Pub. L. 97–72, title IV, § 401, Nov. 3, 1981, 95 Stat. 1061; Pub. L. 98–542, § 8(a), Oct. 24, 1984, 98 Stat. 2731, directed that a protocol be designed for an epidemiological study of the long-term health effects of Agent Orange on Armed Forces personnel who served in Vietnam, and that reports be submitted to Congress describing results with comments and recommendations.

§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

(a)(1) The Secretary may pay compensation under this subchapter to a Persian Gulf veteran with a qualifying chronic disability that became manifest—

(A) during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

(B) to a degree of 10 percent or more during the presumptive period prescribed under subsection (b).

(2) For purposes of this subsection, the term ''qualifying chronic disability'' means a chronic disability resulting from any of the following (or any combination of any of the following):

(A) An undiagnosed illness.

(B) A medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.

(C) Any diagnosed illness that the Secretary determines in regulations prescribed under subsection (d) warrants a presumption of service-connection.

(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

(c)(1) Whenever the Secretary determines under section 1118(c) of this title that a presumption of service connection previously established under this section is no longer warranted—

(A) a veteran who was awarded compensation under this section on the basis of the presumption shall continue to be entitled to receive compensation under this section on that basis; and

(B) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the disease on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

(2) This subsection shall cease to be effective on September 30, 2011.

(d)(1) The Secretary shall prescribe regulations to carry out this section.

(2) Those regulations shall include the following:

(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

(B) A description of the illnesses for which compensation under this section may be paid.

(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

(e) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

(f) For purposes of this section, the term ''Persian Gulf veteran'' means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.

(g) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness or a chronic multisymptom illness include the following:

(1) Fatigue.

(2) Unexplained rashes or other dermatological signs or symptoms.

(3) Headache.

(4) Muscle pain.

(5) Joint pain.

(6) Neurological signs and symptoms.

(7) Neuropsychological signs or symptoms.

(8) Signs or symptoms involving the upper or lower respiratory system.

(9) Sleep disturbances.

(10) Gastrointestinal signs or symptoms.

(11) Cardiovascular signs or symptoms.

(12) Abnormal weight loss.

(13) Menstrual disorders.

(h)(1) If the Secretary determines with respect to a medical research project sponsored by the Department that it is necessary for the conduct of the project that Persian Gulf veterans in receipt of compensation under this section or section 1118 of this title participate in the project without the possibility of loss of service connection under either such section, the Secretary shall provide that service connection granted under either such section for disability of a veteran who participated in the research project may not be terminated. Except as provided in paragraph (2), nothwithstanding[1] any other provision of law any grant of service-connection protected under this subsection shall remain service-connected for purposes of all provisions of law under this title.

(2) Paragraph (1) does not apply in a case in which—

(A) the original award of compensation or service connection was based on fraud; or

(B) it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

(3) The Secretary shall publish in the Federal Register a list of medical research projects sponsored by the Department for which service connection granted under this section or section 1118 of this title may not be terminated pursuant to paragraph (1).

(Added Pub. L. 103–446, title I, § 106(a)(1), Nov. 2, 1994, 108 Stat. 4650; amended Pub. L. 105–277, div. C, title XVI, § 1602(c), Oct. 21, 1998, 112 Stat. 2681–744; Pub. L. 107–103, title II, §§ 202(a), (b)(1), (d)(1), 203(a), Dec. 27, 2001, 115 Stat. 988, 989.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–103, § 202(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

''(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

''(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).''

Subsec. (c)(1). Pub. L. 107–103, § 202(a)(2)(A), struck out ''for an undiagnosed illness (or combination of undiagnosed illnesses)'' after ''service connection'' in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 107–103, § 202(a)(2)(B), struck out ''for such illness (or combination of illnesses)'' after ''awarded compensation under this section''.

Subsec. (c)(2). Pub. L. 107–103, § 202(d)(1), substituted ''on September 30, 2011'' for ''10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 1603 of the Persian Gulf War Veterans Act of 1998''.

Subsec. (g). Pub. L. 107–103, § 202(b)(1), added subsec. (g).

Subsec. (h). Pub. L. 107–103, § 203(a), added subsec. (h).

1998—Subsecs. (c) to (f). Pub. L. 105–277 added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title II, § 202(c), Dec. 27, 2001, 115 Stat. 989, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 1118 of this title] shall take effect on March 1, 2002.''

Pub. L. 107–103, title II, § 203(b), Dec. 27, 2001, 115 Stat. 990, provided that: ''The authority provided by subsection (h) of section 1117 of title 38, United States Code, as added by subsection (a), may be used by the Secretary of Veterans Affairs with respect to any medical research project of the Department of Veterans Affairs, whether commenced before, on, or after the date of the enactment of this Act [Dec. 27, 2001].''

REGULATIONS

Section 106(d) of Pub. L. 103–446 provided that: ''If the Secretary states in the report under subsection (c) [set out below] that the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a), the Secretary shall, not later than 30 days after the date on which such report is submitted, publish in the Federal Register proposed regulations under subsections (b) and (c) of that section.''

IMPROVING EFFECTIVENESS OF CARE OF PERSIAN GULF WAR VETERANS

Pub. L. 105–368, title I, § 105, Nov. 11, 1998, 112 Stat. 3324, provided that:

''(a) ASSESSMENT BY NATIONAL ACADEMY OF SCIENCES.—Not later than April 1, 1999, the Secretary of Veterans Affairs shall enter into a contract with the National Academy of Sciences to review the available scientific data in order to—

''(1) assess whether a methodology could be used by the Department of Veterans Affairs for determining the efficacy of treatments furnished to, and health outcomes (including functional status) of, Persian Gulf War veterans who have been treated for illnesses which may be associated with their service in the Persian Gulf War; and

''(2) identify, to the extent feasible, with respect to each undiagnosed illness prevalent among such veterans and for any other chronic illness that the Academy determines to warrant such review, empirically valid models of treatment for such illness which employ successful treatment modalities for populations with similar symptoms.

''(b) ACTION ON REPORT.—(1) After receiving the final report of the National Academy of Sciences under subsection (a), the Secretary shall, if a reasonable and scientifically feasible methodology is identified by the Academy, develop an appropriate mechanism to mon-

[1] So in original. Probably should be ''notwithstanding''.

itor and study the effectiveness of treatments furnished to, and health outcomes of, Persian Gulf War veterans who suffer from diagnosed and undiagnosed illnesses which may be associated with their service in the Persian Gulf War.

''(2) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of paragraph (1).

''(3) The Secretary shall carry out paragraphs (1) and (2) not later than 180 days after receiving the final report of the National Academy of Sciences under subsection (a).''

AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES REGARDING TOXIC DRUGS AND ILLNESSES ASSOCIATED WITH GULF WAR

Pub. L. 105–277, div. C, title XVI, § 1603–1605, Oct. 21, 1998, 112 Stat. 2681–745 to 2681–748, as amended by Pub. L. 107–103, title II, § 202(d)(2), Dec. 27, 2001, 115 Stat. 989, provided that:

''SEC. 1603. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES.

''(a) PURPOSE.—The purpose of this section is to provide for the National Academy of Sciences, an independent nonprofit scientific organization with appropriate expertise, to review and evaluate the available scientific evidence regarding associations between illnesses and exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

''(b) AGREEMENT.—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities covered by this section. The Secretary shall seek to enter into the agreement not later than two months after the date of enactment of this Act [Oct. 21, 1998].

''(c) IDENTIFICATION OF AGENTS AND ILLNESSES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall—

''(A) identify the biological, chemical, or other toxic agents, environmental or wartime hazards, or preventive medicines or vaccines to which members of the Armed Forces who served in the Southwest Asia theater of operations during the Persian Gulf War may have been exposed by reason of such service; and

''(B) identify the illnesses (including diagnosed illnesses and undiagnosed illnesses) that are manifest in such members.

''(2) In identifying illnesses under paragraph (1)(B), the Academy shall review and summarize the relevant scientific evidence regarding illnesses among the members described in paragraph (1)(A) and among other appropriate populations of individuals, including mortality, symptoms, and adverse reproductive health outcomes among such members and individuals.

''(d) INITIAL CONSIDERATION OF SPECIFIC AGENTS.—(1) In identifying under subsection (c) the agents, hazards, or preventive medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of the first report under subsection (i), the National Academy of Sciences shall consider, within the first six months after the date of enactment of this Act [Oct. 21, 1998], the following:

''(A) The following organophosphorous pesticides:

''(i) Chlorpyrifos.

''(ii) Diazinon.

''(iii) Dichlorvos.

''(iv) Malathion.

''(B) The following carbamate pesticides:

''(i) Proxpur.

''(ii) Carbaryl.

''(iii) Methomyl.

''(C) The carbamate pyridostigmine bromide used as nerve agent prophylaxis.

''(D) The following chlorinated hydrocarbon and other pesticides and repellents:

''(i) Lindane.

''(ii) Pyrethrins.

''(iii) Permethrins.

''(iv) Rodenticides (bait).

''(v) Repellent (DEET).

''(E) The following low-level nerve agents and precursor compounds at exposure levels below those which produce immediately apparent incapacitating symptoms:

''(i) Sarin.

''(ii) Tabun.

''(F) The following synthetic chemical compounds:

''(i) Mustard agents at levels below those which cause immediate blistering.

''(ii) Volatile organic compounds.

''(iii) Hydrazine.

''(iv) Red fuming nitric acid.

''(v) Solvents.

''(vi) Uranium.

''(G) The following ionizing radiation:

''(i) Depleted uranium.

''(ii) Microwave radiation.

''(iii) Radio frequency radiation.

''(H) The following environmental particulates and pollutants:

''(i) Hydrogen sulfide.

''(ii) Oil fire byproducts.

''(iii) Diesel heater fumes.

''(iv) Sand micro-particles.

''(I) Diseases endemic to the region (including the following):

''(i) Leishmaniasis.

''(ii) Sandfly fever.

''(iii) Pathogenic escherechia coli.

''(iv) Shigellosis.

''(J) Time compressed administration of multiple live, 'attenuated', and toxoid vaccines.

''(2) The consideration of agents, hazards, and medicines and vaccines under paragraph (1) shall not preclude the Academy from identifying other agents, hazards, or medicines or vaccines to which members of the Armed Forces may have been exposed for purposes of any report under subsection (i).

''(3) Not later than six months after the date of enactment of this Act [Oct. 21, 1998], the Academy shall submit to the designated congressional committees a report specifying the agents, hazards, and medicines and vaccines considered under paragraph (1).

''(e) DETERMINATIONS OF ASSOCIATIONS BETWEEN AGENTS AND ILLNESSES.—(1) For each agent, hazard, or medicine or vaccine and illness identified under subsection (c), the National Academy of Sciences shall determine, to the extent that available scientific data permit meaningful determinations—

''(A) whether a statistical association exists between exposure to the agent, hazard, or medicine or vaccine and the illness, taking into account the strength of the scientific evidence and the appropriateness of the scientific methodology used to detect the association;

''(B) the increased risk of the illness among human or animal populations exposed to the agent, hazard, or medicine or vaccine; and

''(C) whether a plausible biological mechanism or other evidence of a causal relationship exists between exposure to the agent, hazard, or medicine or vaccine and the illness.

''(2) The Academy shall include in its reports under subsection (i) a full discussion of the scientific evidence and reasoning that led to its conclusions under this subsection.

''(f) REVIEW OF POTENTIAL TREATMENT MODELS FOR CERTAIN ILLNESSES.—Under the agreement under subsection (b), the National Academy of Sciences shall separately review, for each chronic undiagnosed illness identified under subsection (c)(1)(B) and for any other chronic illness that the Academy determines to warrant such review, the available scientific data in order to identify empirically valid models of treatment for such illnesses which employ successful treatment modalities for populations with similar symptoms.

''(g) RECOMMENDATIONS FOR ADDITIONAL SCIENTIFIC STUDIES.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall make any recommendations that it considers appropriate for additional scientific studies (including studies relating to treatment models) to resolve areas of continuing scientific uncertainty relating to the health consequences of exposure to toxic agents, environmental or wartime hazards, or preventive medicines or vaccines associated with Gulf War service.

''(2) In making recommendations for additional studies, the Academy shall consider the available scientific data, the value and relevance of the information that could result from such studies, and the cost and feasibility of carrying out such studies.

''(h) SUBSEQUENT REVIEWS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall conduct on a periodic and ongoing basis additional reviews of the evidence and data relating to its activities under this section.

''(2) As part of each review under this subsection, the Academy shall—

''(A) conduct as comprehensive a review as is practicable of the evidence referred to in subsection (c) and the data referred to in subsections (e), (f), and (g) that became available since the last review of such evidence and data under this section; and

''(B) make determinations under the subsections referred to in subparagraph (A) on the basis of the results of such review and all other reviews previously conducted for purposes of this section.

''(i) REPORTS.—(1) Under the agreement under subsection (b), the National Academy of Sciences shall submit to the committees and officials referred to in paragraph (5) periodic written reports regarding the Academy's activities under the agreement.

''(2) The first report under paragraph (1) shall be submitted not later than 18 months after the date of enactment of this Act [Oct. 21, 1998]. That report shall include—

''(A) the determinations and discussion referred to in subsection (e);

''(B) the results of the review of models of treatment under subsection (f); and

''(C) any recommendations of the Academy under subsection (g).

''(3) Reports shall be submitted under this subsection at least once every two years, as measured from the date of the report under paragraph (2).

''(4) In any report under this subsection (other than the report under paragraph (2)), the Academy may specify an absence of meaningful developments in the scientific or medical community with respect to the activities of the Academy under this section during the 2-year period ending on the date of such report.

''(5) Reports under this subsection shall be submitted to the following:

''(A) The designated congressional committees.

''(B) The Secretary of Veterans Affairs.

''(C) The Secretary of Defense.

''(j) SUNSET.—This section shall cease to be effective on October 1, 2010.

''(k) ALTERNATIVE CONTRACT SCIENTIFIC ORGANIZATION.—(1) If the Secretary is unable within the time period set forth in subsection (b) to enter into an agreement with the National Academy of Sciences for the purposes of this section on terms acceptable to the Secretary, the Secretary shall seek to enter into an agreement for purposes of this section with another appropriate scientific organization that is not part of the Government, operates as a not-for-profit entity, and has expertise and objectivity comparable to that of the National Academy of Sciences.

''(2) If the Secretary enters into an agreement with another organization under this subsection, any reference in this section and section 1118 of title 38, United States Code (as added by section 1602(a)), to the National Academy of Sciences shall be treated as a reference to such other organization.

''SEC. 1604. REPEAL OF INCONSISTENT PROVISIONS OF LAW.

''In the event of the enactment, before, on, or after the date of the enactment of this Act [Oct. 21, 1998], of section 101 of the Veterans Programs Enhancement Act of 1998 [Pub. L. 105–368, 112 Stat. 3317], or any similar provision of law enacted during the second session of the 105th Congress requiring an agreement with the National Academy of Sciences regarding an evaluation of health consequences of service in Southwest Asia during the Persian Gulf War, such section 101 (or other provision of law) shall be treated as if never enacted, and shall have no force or effect.

''SEC. 1605. DEFINITIONS.

''In this title [enacting section 1118 of this title, amending this section and section 1113 of this title, and enacting this note and provisions set out as a note under section 101 of this title]:

''(1) The term 'toxic agent, environmental or wartime hazard, or preventive medicine or vaccine associated with Gulf War service' means a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine that is known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War, whether such association arises as a result of single, repeated, or sustained exposure and whether such association arises through exposure singularly or in combination.

''(2) The term 'designated congressional committees' means the following:

''(A) The Committees on Veterans' Affairs and Armed Services of the Senate.

''(B) The Committees on Veterans' Affairs and National Security [now Armed Services] of the House of Representatives.

''(3) The term 'Persian Gulf War' has the meaning given that term in section 101(33) of title 38, United States Code.''

[Pub. L. 105–368, title I, § 101, Nov. 11, 1998, 112 Stat. 3317, enacted provisions similar to those in sections 1603 and 1605 of Pub. L. 105–277, set out above. See section 1604 of Pub. L. 105–277, set out above.]

PERSIAN GULF WAR VETERANS' BENEFITS

Sections 102 to 105, 107, 109, and 110 of title I of Pub. L. 103–446, as amended by Pub. L. 104–262, title III, § 352(a), Oct. 9, 1996, 110 Stat. 3210; Pub. L. 105–368, title I, § 107, Nov. 11, 1998, 112 Stat. 3325; Pub. L. 106–117, title II, § 205(b), (c), Nov. 30, 1999, 113 Stat. 1563, provided that:

''SEC. 102. FINDINGS.

''The Congress makes the following findings:

''(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

''(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

''(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of

operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

''(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

''(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102–585 [see Short Title of 1992 Amendments note under section 101 of this title], directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public Law 103–210 [see Tables for classification], the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103–160 (the National Defense Authorization Act for Fiscal Year 1994) [see Tables for classification] for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

''(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the National Defense Authorization Act for Fiscal Year 1995 [Pub. L. 103–337, see Tables for classification], which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

''(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earnings capacities they may be experiencing.

''SEC. 103. PURPOSES.

''The purposes of this title [see Short Title of 1994 Amendments note under section 101 of this title] are—

''(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

''(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

''(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

''(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

''SEC. 104. DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

''(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act [Nov. 2, 1994]) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

''(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act [Nov. 2, 1994], the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

''(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

''(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

''(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

''(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

''(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

''(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

''(b) RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol de-

scribed in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

''(c) CASE DEFINITIONS AND DIAGNOSES.—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

''SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.

''(a) IN GENERAL.—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

''(b) NEWSLETTER.—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semi-annually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

''(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 2003.

''(c) TOLL-FREE NUMBER.—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act [Nov. 2, 1994].

''SEC. 107. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

''(a) EVALUATION PROGRAM.—Subject to subsection (c), the Secretary of Veterans Affairs shall conduct a program to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the program, the Secretary shall provide for the conduct of diagnostic testing and appropriate medical examinations of any individual—

''(1) who is the spouse or child of a veteran who—

''(A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102–585 [set out in a note under section 527 of this title]; and

''(B) is suffering from an illness or disorder;

''(2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and

''(3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.

''(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on December 31, 2003.

''(c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed $2,000,000.

''(d) CONTRACTING.—The Secretary may provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements, including fee arrangements described in section 1703 of title 38, United States Code.

''(e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act [Nov. 2, 1994], the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.

''(f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.

''(g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary for the purposes of the program. In conducting such outreach activities, the Secretary shall advise that medical treatment is not available under the program.

''(h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—

''(1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and

''(2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.

''(i) REPORT TO CONGRESS.—Not later than July 31, 1999, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on activities with respect to the program, including the provision of services under subsection (d).

''(j) DEFINITIONS.—For purposes of this section, the terms 'child' and 'spouse' have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

''SEC. 109. SURVEY OF PERSIAN GULF VETERANS.

''(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

''(b) COORDINATION WITH DEPARTMENT OF DEFENSE.—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

''(c) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

''SEC. 110. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

''(a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585) [set out in a note under section 527 of this title] a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

''(b) OVERSIGHT.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection

(a), (B) oversight of such research, and (C) review of the research findings.

''(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

''(c) ACCESS TO DATA.—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

''(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).''

[Pub. L. 104–262, title III, § 352(b), Oct. 9, 1996, 110 Stat. 3211, provided that: ''Any diagnostic testing and medical examinations undertaken by the Secretary of Veterans Affairs for the purpose of the study required by subsection (a) of such section [section 107(a) of Pub. L. 103–446, set out above] during the period beginning on October 1, 1996, and ending on the date of the enactment of this Act [Oct. 9, 1996] is hereby ratified.'']

REPORT TO CONGRESS ON INTENTION TO PAY COMPENSATION

Section 106(c) of Pub. L. 103–446 directed Secretary of Veterans Affairs, not later than 60 days after Nov. 2, 1994, to submit to Congress a report stating whether or not the Secretary intended to pay compensation as provided in this section.

EXECUTIVE ORDER NO. 12961

Ex. Ord. No. 12961, May 26, 1995, 60 F.R. 28507, which established the Presidential Advisory Committee on Gulf War Veterans' Illnesses, was revoked by Ex. Ord. No. 13138, § 3(g), Sept. 30, 1999, 64 F.R. 53880, formerly set out as a note under section 14 of the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 13034. EXTENSION OF PRESIDENTIAL ADVISORY COMMITTEE ON GULF WAR VETERANS' ILLNESSES

Ex. Ord. No. 13034, Jan. 30, 1997, 62 F.R. 5137, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Extension*. The Presidential Advisory Committee on Gulf War Veterans' Illnesses (the ''Committee''), established pursuant to Executive Order 12961 [set out above] of May 26, 1995, is hereby extended for the purposes set forth herein. All provisions of that order relating to membership and administration shall remain in effect. All Committee appointments, as well as the President's designation of a Chairperson, shall remain in effect. The limitations set forth in section 2(c)–(e) and section 4(a) of Executive Order 12961 shall also remain in effect. The Committee shall remain subject to the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

SEC. 2. *Functions*. (a) The Committee shall report to the President through the Secretary of Defense, the Secretary of Veterans Affairs, and the Secretary of Health and Human Services.

(b) The Committee shall have two principal roles:

(1) Oversight of the ongoing investigation being conducted by the Department of Defense with the assistance, as appropriate, of other executive departments and agencies into possible chemical or biological warfare agent exposures during the Gulf War; and

(2) Evaluation of the Federal Government's plan for and progress towards the implementation of the Committee's recommendations contained in its Final Report submitted on December 31, 1996.

(c) The Committee shall provide advice and recommendations related to its oversight and evaluation responsibilities.

(d) The Committee may also provide additional advice and recommendations prompted by any new developments related to its original functions as set forth in section 2(b) of Executive Order 12961.

(e) The Committee shall submit by letter a status report by April 30, 1997, and a final supplemental report by October 31, 1997, unless otherwise directed by the President.

SEC. 3. *General Provisions*. (a) The Committee shall terminate 30 days after submitting its final supplemental report.

(b) This order is intended only to improve the internal management of the executive branch and it is not intended to create any right, benefit or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 1118. Presumptions of service connection for illnesses associated with service in the Persian Gulf during the Persian Gulf War

(a)(1) For purposes of section 1110 of this title, and subject to section 1113 of this title, each illness, if any, described in paragraph (2) shall be considered to have been incurred in or aggravated by service referred to in that paragraph, notwithstanding that there is no record of evidence of such illness during the period of such service.

(2) An illness referred to in paragraph (1) is any diagnosed or undiagnosed illness that—

(A) the Secretary determines in regulations prescribed under this section to warrant a presumption of service connection by reason of having a positive association with exposure to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; and

(B) becomes manifest within the period, if any, prescribed in such regulations in a veteran who served on active duty in that theater of operations during that war and by reason of such service was exposed to such agent, hazard, or medicine or vaccine.

(3) For purposes of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War and has an illness described in paragraph (2) shall be presumed to have been exposed by reason of such service to the agent, hazard, or medicine or vaccine associated with the illness in the regulations prescribed under this section unless there is conclusive evidence to establish that the veteran was not exposed to the agent, hazard, or medicine or vaccine by reason of such service.

(4) For purposes of this section, signs or symptoms that may be a manifestation of an undiagnosed illness include the signs and symptoms listed in section 1117(g) of this title.

(b)(1)(A) Whenever the Secretary makes a determination described in subparagraph (B), the

Secretary shall prescribe regulations providing that a presumption of service connection is warranted for the illness covered by that determination for purposes of this section.

(B) A determination referred to in subparagraph (A) is a determination based on sound medical and scientific evidence that a positive association exists between—

(i) the exposure of humans or animals to a biological, chemical, or other toxic agent, environmental or wartime hazard, or preventive medicine or vaccine known or presumed to be associated with service in the Southwest Asia theater of operations during the Persian Gulf War; and

(ii) the occurrence of a diagnosed or undiagnosed illness in humans or animals.

(2)(A) In making determinations for purposes of paragraph (1), the Secretary shall take into account—

(i) the reports submitted to the Secretary by the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998; and

(ii) all other sound medical and scientific information and analyses available to the Secretary.

(B) In evaluating any report, information, or analysis for purposes of making such determinations, the Secretary shall take into consideration whether the results are statistically significant, are capable of replication, and withstand peer review.

(3) An association between the occurrence of an illness in humans or animals and exposure to an agent, hazard, or medicine or vaccine shall be considered to be positive for purposes of this subsection if the credible evidence for the association is equal to or outweighs the credible evidence against the association.

(c)(1) Not later than 60 days after the date on which the Secretary receives a report from the National Academy of Sciences under section 1603 of the Persian Gulf War Veterans Act of 1998, the Secretary shall determine whether or not a presumption of service connection is warranted for each illness, if any, covered by the report.

(2) If the Secretary determines under this subsection that a presumption of service connection is warranted, the Secretary shall, not later than 60 days after making the determination, issue proposed regulations setting forth the Secretary's determination.

(3)(A) If the Secretary determines under this subsection that a presumption of service connection is not warranted, the Secretary shall, not later than 60 days after making the determination, publish in the Federal Register a notice of the determination. The notice shall include an explanation of the scientific basis for the determination.

(B) If an illness already presumed to be service connected under this section is subject to a determination under subparagraph (A), the Secretary shall, not later than 60 days after publication of the notice under that subparagraph, issue proposed regulations removing the presumption of service connection for the illness.

(4) Not later than 90 days after the date on which the Secretary issues any proposed regulations under this subsection, the Secretary shall issue final regulations. Such regulations shall be effective on the date of issuance.

(d) Whenever the presumption of service connection for an illness under this section is removed under subsection (c)—

(1) a veteran who was awarded compensation for the illness on the basis of the presumption before the effective date of the removal of the presumption shall continue to be entitled to receive compensation on that basis; and

(2) a survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from the illness on the basis of the presumption before that date shall continue to be entitled to receive dependency and indemnity compensation on that basis.

(e) Subsections (b) through (d) shall cease to be effective on September 30, 2011.

(Added Pub. L. 105–277, div. C, title XVI, § 1602(a)(1), Oct. 21, 1998, 112 Stat. 2681–742; amended Pub. L. 107–103, title II, § 202(b)(2), (d)(1), Dec. 27, 2001, 115 Stat. 989.)

REFERENCES IN TEXT

Section 1603 of the Persian Gulf War Veterans Act of 1998, referred to in subsecs. (b)(2)(A)(i) and (c)(1), is section 1603 of Pub. L. 105–277, which is set out in a note under section 1117 of this title.

AMENDMENTS

2001—Subsec. (a)(4). Pub. L. 107–103, § 202(b)(2), added par. (4).

Subsec. (e). Pub. L. 107–103, § 202(d)(1), substituted ''on September 30, 2011'' for ''10 years after the first day of the fiscal year in which the National Academy of Sciences submits to the Secretary the first report under section 1603 of the Persian Gulf War Veterans Act of 1998''.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 202(b)(2) of Pub. L. 107–103 effective Mar. 1, 2002, see section 202(c) of Pub. L. 107–103, set out as a note under section 1117 of this title.

SUBCHAPTER III—WARTIME DEATH COMPENSATION

§ 1121. Basic entitlement

The surviving spouse, child or children, and dependent parent or parents of any veteran who died before January 1, 1957 as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during a period of war, shall be entitled to receive compensation at the monthly rates specified in section 1122 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1122, § 321; Pub. L. 92–197, § 6, Dec. 15, 1971, 85 Stat. 662; Pub. L. 94–433, title IV, § 404(12), Sept. 30, 1976, 90 Stat. 1378; renumbered § 1121 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 321 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1122'' for ''322''.

1976—Pub. L. 94–433 substituted ''spouse'' for ''widow''.

1971—Pub. L. 92–197 struck out eligibility clause when the veteran died after April 30, 1957, under circumstances described in section 417(a) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

§ 1122. Rates of wartime death compensation

(a) The monthly rates of death compensation shall be as follows:

(1) Surviving spouse but no child, $87;

(2) Surviving spouse with one child, $121 (with $29 for each additional child);

(3) No surviving spouse but one child, $67;

(4) No surviving spouse but two children, $94 (equally divided);

(5) No surviving spouse but three children, $122 (equally divided) (with $23 for each additional child, total amount to be equally divided);

(6) Dependent parent, $75;

(7) Both dependent parents, $40 each.

(b) The monthly rate of death compensation payable to a surviving spouse or dependent parent under subsection (a) of this section shall be increased by $79 if the payee is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1122, § 322; Pub. L. 91–96, § 7, Oct. 27, 1969, 83 Stat. 146; Pub. L. 91–588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92–197, § 9, Dec. 15, 1971, 85 Stat. 662; Pub. L. 93–295, title II, § 204, May 31, 1974, 88 Stat. 183; Pub. L. 94–169, title II, § 202, Dec. 23, 1975, 89 Stat. 1021; Pub. L. 94–432, title IV, § 401, Sept. 30, 1976, 90 Stat. 1372; Pub. L. 94–433, title IV, § 404(13)–(17), Sept. 30, 1976, 90 Stat. 1378, 1379; Pub. L. 95–204, title III, § 301, Dec. 2, 1977, 91 Stat. 1459; renumbered § 1122, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 322 of this title as this section.

1977—Subsec. (b). Pub. L. 95–204 substituted ''$79'' for ''$74''.

1976—Subsec. (a). Pub. L. 94–433, § 404(13)–(16), substituted ''Surviving spouse'' for ''Widow'' in pars. (1) and (2); ''surviving spouse'' for ''widow'' in pars. (3), (4), and (5); ''parent'' for ''mother or father'' in par. (6); and ''Both dependent parents'' for ''Dependent mother and father'' in par. (7).

Subsec. (b). Pub. L. 94–433, § 404(17), substituted ''surviving spouse'' for ''widow''.

Pub. L. 94–432 substituted ''$74'' for ''$69''.

1975—Subsec. (b). Pub. L. 94–169 substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''$69'' for ''$64''.

1974—Subsec. (b). Pub. L. 93–295 substituted ''$64'' for ''$55''.

1971—Subsec. (b). Pub. L. 92–197 extended benefits to dependent parents under subsec. (a) of this section and increased the increase in benefits from $50 to $55.

1970—Subsec. (b). Pub. L. 91–588 substituted ''$55'' for ''$50''.

1969—Pub. L. 91–96 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1977 AMENDMENT

Section 302 of Pub. L. 95–204 provided that: ''The provisions of this Act [see Tables for classification] shall take effect January 1, 1978.''

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

Amendment by Pub. L. 94–432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94–432, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 202 of Pub. L. 94–169, as amended by section 101 of Pub. L. 94–432, eff. Sept. 30, 1976, provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

SUBCHAPTER IV—PEACETIME DISABILITY COMPENSATION

§ 1131. Basic entitlement

For disability resulting from personal injury suffered or disease contracted in line of duty, or for aggravation of a preexisting injury suffered or disease contracted in line of duty, in the active military, naval, or air service, during other than a period of war, the United States will pay to any veteran thus disabled and who was discharged or released under conditions other than dishonorable from the period of service in which said injury or disease was incurred, or preexisting injury or disease was aggravated, compensation as provided in this subchapter, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1122, § 331; Pub. L. 101–508, title VIII, § 8052(a)(3), Nov. 5, 1990, 104 Stat. 1388–351; renumbered § 1131, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–178, title VIII, § 8202(b), June 9, 1998, 112 Stat. 492; Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865.)

AMENDMENTS

1998—Pub. L. 105–178, which directed the substitution of '', abuse of alcohol or drugs, or use of tobacco products'' for ''or abuse of alcohol or drugs'' before the period at end, was amended generally by Pub. L. 105–206, which provided that the amendments made by that section as originally enacted shall be treated for all purposes as not having been made. See Effective Date of 1998 Amendment note below.

1991—Pub. L. 102–83 renumbered section 331 of this title as this section.

1990—Pub. L. 101–508 substituted ''a result of the veteran's own willful misconduct or abuse of alcohol or

drugs'' for ''the result of the veteran's own willful misconduct''.

EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, and provisions of Pub. L. 105–178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105–206 to be treated as not enacted, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 effective with respect to claims filed after Oct. 31, 1990, see section 8052(b) of Pub. L. 101–508, set out as a note under section 105 of this title.

CONSTRUCTION OF 1998 AMENDMENT

Pub. L. 105–206, title IX, § 9014(a), July 22, 1998, 112 Stat. 865, provided that section 8202 of Pub. L. 105–178 is amended generally and that the amendments made by that section as originally enacted shall be treated for all purposes as not having been made.

§ 1132. Presumption of sound condition

For the purposes of section 1131 of this title, every person employed in the active military, naval, or air service for six months or more shall be taken to have been in sound condition when examined, accepted and enrolled for service, except as to defects, infirmities, or disorders noted at the time of the examination, acceptance and enrollment, or where evidence or medical judgment is such as to warrant a finding that the disease or injury existed before acceptance and enrollment.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1122, § 332; renumbered § 1132 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 332 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1131'' for ''331''.

§ 1133. Presumptions relating to certain diseases

(a) For the purposes of section 1131 of this title, and subject to the provisions of subsections (b) and (c) of this section, any veteran who served for six months or more and contracts a tropical disease or a resultant disorder or disease originating because of therapy administered in connection with a tropical disease, or as a preventative thereof, shall be deemed to have incurred such disability in the active military, naval, or air service when it is shown to exist within one year after separation from active service, or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service.

(b) Service-connection shall not be granted pursuant to subsection (a), in any case where the disease or disorder is shown by clear and unmistakable evidence to have had its inception before or after active military, naval, or air service.

(c) Nothing in this section shall be construed to prevent the granting of service-connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, § 333; renumbered § 1133 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 333 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1131'' for ''331''.

§ 1134. Rates of peacetime disability compensation

For the purposes of section 1131 of this title, the compensation payable for the disability shall be that specified in section 1114 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, § 334; Pub. L. 92–328, title I, § 108(a), June 30, 1972, 86 Stat. 396; renumbered § 1134 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 334 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1131'' for ''331'' and ''1114'' for ''314''.

1972—Pub. L. 92–328 substituted provisions that compensation payable for the disability be that specified in section 314 of this title, for provisions that compensation payable for the disability be equal to 80% of the compensation payable for such disability under section 314 of this title, adjusted upward or downward to the nearest dollar.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(b) of Pub. L. 92–328 provided that: ''Section 108 [repealing section 336 of this title and amending this section and section 335 [now 1135] of this title] shall take effect on July 1, 1973.''

§ 1135. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 1134 of this title, and whose disability is rated not less than 30 percent, shall be entitled to additional monthly compensation for dependents as provided in section 1115 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, § 335; Pub. L. 92–328, title I, § 108(b), June 30, 1972, 86 Stat. 396; Pub. L. 98–543, title I, § 112(a), Oct. 24, 1984, 98 Stat. 2740; renumbered § 1135 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 335 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1134'' for ''334'' and ''1115'' for ''315''.

1984—Pub. L. 98–543 substituted ''30 percent'' for ''50 per centum''.

1972—Pub. L. 92–328 substituted provisions that the veteran be entitled to additional monthly compensation for dependents as provided in section 315 of this title, for provisions that the veteran be entitled to additional monthly compensation for dependents equal to 80% of the additional compensation for dependents provided in section 315 of this title, and subject to the limitations thereof, and adjusted upward or downward to the nearest dollar.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 112(b) of Pub. L. 98–543 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1978.''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective July 1, 1973, see section 301(b) of Pub. L. 92–328, set out as a note under section 1134 of this title.

[§ 1136. Vacant]

CODIFICATION

Prior to renumbering of sections 301 to 363 of this chapter as sections 1101 to 1163 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 336 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, which set forth the conditions under which wartime rates were payable to any veteran otherwise entitled to compensation under the provisions of this subchapter, was repealed by Pub. L. 92–328, title I, § 108(c), title III, § 301(b), June 30, 1972, 86 Stat. 396, 398, effective July 1, 1973.

§ 1137. Wartime presumptions for certain veterans

For the purposes of this subchapter and subchapter V of this chapter and notwithstanding the provisions of sections 1132 and 1133 of this subchapter, the provisions of sections 1111, 1112, and 1113 of this chapter shall be applicable in the case of any veteran who served in the active military, naval, or air service after December 31, 1946.

(Added Pub. L. 89–358, § 7(a), Mar. 3, 1966, 80 Stat. 27, § 337; amended Pub. L. 93–295, title II, § 205, May 31, 1974, 88 Stat. 183; renumbered § 1137 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 337 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1132 and 1133'' for ''332 and 333'' and ''1111, 1112, and 1113'' for ''311, 312, and 313''.

1974—Pub. L. 93–295 substituted ''December 31, 1946'' for ''January 31, 1955''.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

SUBCHAPTER V—PEACETIME DEATH COMPENSATION

§ 1141. Basic entitlement

The surviving spouse, child or children, and dependent parent or parents of any veteran who died before January 1, 1957, as the result of injury or disease incurred in or aggravated by active military, naval, or air service, in line of duty, during other than a period of war, shall be entitled to receive compensation as hereinafter provided in this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1123, § 341; Pub. L. 92–197, § 6, Dec. 15, 1971, 85 Stat. 662; Pub. L. 94–433, title IV, § 404(18), Sept. 30, 1976, 90 Stat. 1379; renumbered § 1141, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 341 of this title as this section.

1976—Pub. L. 94–433 substituted ''spouse'' for ''widow''.

1971—Pub. L. 92–197 struck out eligibility clause when the veteran died after April 30, 1957, under circumstances described in section 417(a) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

§ 1142. Rates of peacetime death compensation

For the purposes of section 1141 of this title, the monthly rates of death compensation payable shall be those specified in section 1122 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, § 342; Pub. L. 93–295, title II, § 206(a), May 31, 1974, 88 Stat. 183; renumbered § 1142 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 342 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1141'' for ''341'' and ''1122'' for ''322''.

1974—Pub. L. 93–295 substituted ''those specified in section 322 of this title'' for ''equal to 80 per centum of the rates prescribed by section 322 of this title, adjusted upward or downward to the nearest dollar, counting fifty cents and over as a whole dollar''.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

[§ 1143. Vacant]

CODIFICATION

Prior to renumbering of sections 301 to 363 of this chapter as sections 1101 to 1163 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 343 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, which prescribed conditions under which wartime rates of compensation were payable, was repealed by Pub. L. 93–295, title II, § 206(b), title IV, § 401, May 31, 1974, 88 Stat. 183, 184, effective May 1, 1974.

SUBCHAPTER VI—GENERAL COMPENSATION PROVISIONS

§ 1151. Benefits for persons disabled by treatment or vocational rehabilitation

(a) Compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded for a qualifying additional disability or a qualifying death of a veteran in the same manner as if such additional disability or death were service-connected. For purposes of this section, a disability or death is a qualifying additional disability or qualifying death if the disability or death was not the result of the veteran's willful misconduct and—

(1) the disability or death was caused by hospital care, medical or surgical treatment, or examination furnished the veteran under any law administered by the Secretary, either by a

Department employee or in a Department facility as defined in section 1701(3)(A) of this title, and the proximate cause of the disability or death was—

(A) carelessness, negligence, lack of proper skill, error in judgment, or similar instance of fault on the part of the Department in furnishing the hospital care, medical or surgical treatment, or examination; or

(B) an event not reasonably foreseeable; or

(2) the disability or death was proximately caused (A) by the provision of training and rehabilitation services by the Secretary (including by a service-provider used by the Secretary for such purpose under section 3115 of this title) as part of an approved rehabilitation program under chapter 31 of this title, or (B) by participation in a program (known as a ''compensated work therapy program'') under section 1718 of this title.

(b)(1) Where an individual is, on or after December 1, 1962, awarded a judgment against the United States in a civil action brought pursuant to section 1346(b) of title 28 or, on or after December 1, 1962, enters into a settlement or compromise under section 2672 or 2677 of title 28 by reason of a disability or death treated pursuant to this section as if it were service-connected, then (except as otherwise provided in paragraph (2)) no benefits shall be paid to such individual for any month beginning after the date such judgment, settlement, or compromise on account of such disability or death becomes final until the aggregate amount of benefits which would be paid but for this subsection equals the total amount included in such judgment, settlement, or compromise.

(2) In the case of a judgment, settlement, or compromise covered by paragraph (1) that becomes final on or after the date of the enactment of this paragraph and that includes an amount that is specifically designated for a purpose for which benefits are provided under chapter 21 or 39 of this title (hereinafter in this paragraph referred to as the ''offset amount''), if such judgment, settlement, or compromise becomes final before the date of the award of benefits under chapter 21 or 39 for the purpose for which the offset amount was specifically designated—

(A) the amount of such award shall be reduced by the offset amount; and

(B) if the offset amount is greater than the amount of such award, the excess amount received pursuant to the judgment, settlement or compromise, shall be offset against benefits otherwise payable under this chapter.

(c) A qualifying additional disability under this section shall be treated in the same manner as if it were a service-connected disability for purposes of the following provisions of this title:

(1) Chapter 21, relating to specially adapted housing.

(2) Chapter 39, relating to automobiles and adaptive equipment.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, § 351; Pub. L. 87–825, § 3, Oct. 15, 1962, 76 Stat. 950; Pub. L. 91–24, § 3, June 11, 1969, 83 Stat. 33; Pub. L. 94–433, title IV, § 404(19), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98–223, title II, § 213(1), Mar. 2, 1984, 98 Stat. 46; renumbered § 1151 and amended Pub. L. 102–83, §§ 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 104–204, title IV, § 422(a), Sept. 26, 1996, 110 Stat. 2926; Pub. L. 106–419, title III, § 303, Nov. 1, 2000, 114 Stat. 1853; Pub. L. 108–454, title III, § 304(a),(c), Dec. 10, 2004, 118 Stat. 3611.)

REFERENCES IN TEXT

The date of the enactment of this paragraph, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 108–454, which was approved Dec. 10, 2004.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–454, § 304(c), designated existing provision as par. (1), inserted ''(except as otherwise provided in paragraph (2))'' after ''service-connected, then'', and added par. (2).

Subsec. (c). Pub. L. 108–454, § 304(a), added subsec. (c).

2000—Subsec. (a)(2). Pub. L. 106–419 inserted ''(A)'' after ''proximately caused'' and added cl. (B).

1996—Subsec. (a). Pub. L. 104–204, § 422(a)(1), added subsec. (a) and struck out former first sentence of section which read as follows: ''Where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded under any of the laws administered by the Secretary, or as a result of having submitted to an examination under any such law, and not the result of such veteran's own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected.''

Subsec. (b). Pub. L. 104–204, § 422(a)(2), designated second sentence of section as subsec. (b), struck out '', aggravation,'' after ''disability'' in two places, and substituted ''this subsection equals the total amount'' for ''this sentence equals the total amount''.

1991—Pub. L. 102–83, § 5(a), renumbered section 351 of this title as this section.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1984—Pub. L. 98–223 substituted ''title 28'' for ''title 28, United States Code,'' in two places.

1976—Pub. L. 94–433 struck out ''him'' before ''under any of the laws'' and substituted ''such veteran's'' for ''his'' in first sentence.

1969—Pub. L. 91–24 substituted '', on or after December 1, 1962,'' for ''hereafter'' wherever appearing.

1962—Pub. L. 87–825 provided that where an individual is awarded a judgment under section 1346(b) of title 28, enters a settlement or compromise under section 2672 or 2677 of such title by reason of a disability, aggravation, or death treated pursuant to this section as if service-connected, then no benefits shall be paid such individual for any month beginning after such judgment, settlement or compromise becomes final until the aggregate amount of benefits equals the total amount included in such judgment, settlement, or compromise, and struck out provisions which required that no benefits were to be awarded unless application was made therefor within two years after an injury or aggravation was suffered, or a death occurred.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title III, § 304(b), Dec. 10, 2004, 118 Stat. 3611, provided that:''Subsection (c) of section 1151 of title 38, United States Code, as added by subsection (a), shall apply with respect to eligibility for benefits and services provided by the Secretary of Veterans Affairs on or after the date of the enactment of this Act [Dec. 10, 2004].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 422(b), (c) of Pub. L. 104–204 provided that:

''(b)(1) The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1996.

''(2) Section 1151 of title 38, United States Code (as amended by subsection (a)), shall govern all administrative and judicial determinations of eligibility for benefits under such section that are made with respect to claims filed on or after the effective date set forth in paragraph (1) [Oct. 1, 1996], including those based on original applications and applications seeking to reopen, revise, reconsider, or otherwise readjudicate on any basis claims for benefits under such section 1151 or any provision of law that is a predecessor of such section.

''(c) Nothwithstanding [sic] subsection (b)(1), section 421(d) [set out as a note under section 1801 of this title], or any other provision of this Act [see Tables for classification], section 421 [enacting sections 1801 to 1806 of this title, amending section 5312 of this title, and enacting provisions set out as notes under section 1801 of this title] and this section [amending this section] shall not take effect until October 1, 1997, unless legislation other than this Act is enacted to provide for an earlier effective date.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87–825, set out as a note under section 110 of this title.

§ 1152. Persons heretofore having a compensable status

The death and disability benefits of this chapter shall, notwithstanding the service requirements thereof, be granted to persons heretofore recognized by law as having a compensable status, including persons whose claims are based on war or peacetime service rendered before April 21, 1898.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, § 352; renumbered § 1152, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 352 of this title as this section.

§ 1153. Aggravation

A preexisting injury or disease will be considered to have been aggravated by active military, naval, or air service, where there is an increase in disability during such service, unless there is a specific finding that the increase in disability is due to the natural progress of the disease.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, § 353; renumbered § 1153, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 353 of this title as this section.

§ 1154. Consideration to be accorded time, place, and circumstances of service

(a) The Secretary shall include in the regulations pertaining to service-connection of disabilities (1) additional provisions in effect requiring that in each case where a veteran is seeking service-connection for any disability due consideration shall be given to the places, types, and circumstances of such veteran's service as shown by such veteran's service record, the official history of each organization in which such veteran served, such veteran's medical records, and all pertinent medical and lay evidence, and (2) the provisions required by section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98–542; 98 Stat. 2727).

(b) In the case of any veteran who engaged in combat with the enemy in active service with a military, naval, or air organization of the United States during a period of war, campaign, or expedition, the Secretary shall accept as sufficient proof of service-connection of any disease or injury alleged to have been incurred in or aggravated by such service satisfactory lay or other evidence of service incurrence or aggravation of such injury or disease, if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of the veteran. Service-connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service-connection in each case shall be recorded in full.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1124, § 354; Pub. L. 94–433, title IV, § 404(20), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98–542, § 4, Oct. 24, 1984, 98 Stat. 2727; Pub. L. 102–54, § 14(b)(1), June 13, 1991, 105 Stat. 282; renumbered § 1154 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 5 of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, referred to in subsec. (a), is set out below.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 354 of this title as this section.

Pub. L. 102–54, § 14(b)(1)(A), inserted a comma after ''place'' in section catchline.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–54, § 14(b)(1)(B), inserted before period at end ''(Public Law 98–542; 98 Stat. 2727)''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1984—Subsec. (a). Pub. L. 98–542 designated existing provisions as cl. (1) and added cl. (2).

1976—Subsec. (a). Pub. L. 94–433 substituted ''such veteran's'' for ''his'' in three places and ''such veteran'' for ''he''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

RADIATION DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE

Pub. L. 108–183, title VI, § 601, Dec. 16, 2003, 117 Stat. 2667, provided that:

''(a) REVIEW OF MISSION, PROCEDURES, AND ADMINISTRATION.—(1) The Secretary of Veterans Affairs and the

Secretary of Defense shall jointly conduct a review of the mission, procedures, and administration of the Radiation Dose Reconstruction Program of the Department of Defense.

''(2) In conducting the review under paragraph (1), the Secretaries shall—

''(A) determine whether any additional actions are required to ensure that the quality assurance and quality control mechanisms of the Radiation Dose Reconstruction Program are adequate and sufficient for purposes of the program; and

''(B) determine the actions that are required to ensure that the mechanisms of the Radiation Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for purposes of the program, including mechanisms to permit veterans to review the assumptions utilized in their dose reconstructions.

''(3) Not later than 90 days after the date of the enactment of this Act [Dec. 16, 2003], the Secretaries shall jointly submit to Congress a report on the review under paragraph (1). The report shall set forth—

''(A) the results of the review;

''(B) a plan for any actions determined to be required under paragraph (2); and

''(C) such other recommendations for the improvement of the mission, procedures, and administration of the Radiation Dose Reconstruction Program as the Secretaries jointly consider appropriate.

''(b) ON-GOING REVIEW AND OVERSIGHT.—The Secretaries shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Radiation Dose Reconstruction Program, including the establishment of the advisory board required by subsection (c).

''(c) ADVISORY BOARD.—(1) In taking actions under subsection (b), the Secretaries shall jointly appoint an advisory board to provide review and oversight of the Radiation Dose Reconstruction Program.

''(2) The advisory board under paragraph (1) shall be composed of the following:

''(A) At least one expert in historical dose reconstruction of the type conducted under the Radiation Dose Reconstruction Program.

''(B) At least one expert in radiation health matters.

''(C) At least one expert in risk communications matters.

''(D) A representative of the Department of Veterans Affairs.

''(E) A representative of the Defense Threat Reduction Agency.

''(F) At least three veterans, including at least one veteran who is a member of an atomic veterans group.

''(3) The advisory board under paragraph (1) shall—

''(A) conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on claims for service connection of radiogenic diseases;

''(B) assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the mission, procedures, and evidentiary requirements of the Radiation Dose Reconstruction Program; and

''(C) carry out such other activities with respect to the review and oversight of the Radiation Dose Reconstruction Program as the Secretaries shall jointly specify.

''(4) The advisory board under paragraph (1) may make such recommendations on modifications in the mission or procedures of the Radiation Dose Reconstruction Program as the advisory board considers appropriate as a result of the audits conducted under paragraph (3)(A).''

REVIEW OF DOSE RECONSTRUCTION PROGRAM OF THE DEFENSE THREAT REDUCTION AGENCY

Pub. L. 106–419, title III, § 305, Nov. 1, 2000, 114 Stat. 1853, provided that:

''(a) REVIEW BY NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act [Nov. 1, 2000], the Secretary of Defense shall enter into a contract with the National Academy of Sciences to carry out periodic reviews of the program of the Defense Threat Reduction Agency of the Department of Defense known as the 'dose reconstruction program'.

''(b) REVIEW ACTIVITIES.—The periodic reviews of the dose reconstruction program under the contract under subsection (a) shall consist of the periodic selection of random samples of doses reconstructed by the Defense Threat Reduction Agency in order to determine—

''(1) whether or not the reconstruction of the sampled doses is accurate;

''(2) whether or not the reconstructed dosage number is accurately reported;

''(3) whether or not the assumptions made regarding radiation exposure based upon the sampled doses are credible; and

''(4) whether or not the data from nuclear tests used by the Defense Threat Reduction Agency as part of the reconstruction of the sampled doses is accurate.

''(c) DURATION OF REVIEW.—The periodic reviews under the contract under subsection (a) shall occur over a period of 24 months.

''(d) REPORT.—(1) Not later than 60 days after the conclusion of the period referred to in subsection (c), the National Academy of Sciences shall submit to Congress a report on its activities under the contract under this section.

''(2) The report shall include the following:

''(A) A detailed description of the activities of the National Academy of Sciences under the contract.

''(B) Any recommendations that the National Academy of Sciences considers appropriate regarding a permanent system of review of the dose reconstruction program of the Defense Threat Reduction Agency.''

IONIZING RADIATION REGISTRY

Pub. L. 99–576, title II, § 232, Oct. 28, 1986, 100 Stat. 3264, as amended by Pub. L. 102–83, §§ 5(c)(2), 6(h), Aug. 6, 1991, 105 Stat. 406, 408, provided that:

''(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Veterans Affairs shall establish and maintain a special record to be known as the 'Ionizing Radiation Registry' (hereinafter in this section referred to as the 'Registry').

''(b) CONTENT OF REGISTRY.—Except as provided in subsection (c), the Registry shall include the following information:

''(1) A list containing the name of each veteran who was exposed to ionizing radiation under the conditions described in section 1710(e)(1)(B) of title 38, United States Code, and who—

''(A) applies for hospital or nursing home care from the Department of Veterans Affairs under chapter 17 of such title;

''(B) files a claim for compensation under chapter 11 of such title on the basis of a disability which may be associated with the exposure to ionizing radiation; or

''(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of the exposure of such veteran to ionizing radiation.

''(2) Medical data relating to each veteran listed in the Registry, including—

''(A) the veteran's medical history, latest health status recorded by the Department of Veterans Affairs, physical examinations, and clinical findings; and

''(B) a statement describing birth defects, if any, in the natural children of the veteran.

''(3) Data on claims for the compensation referred to in paragraph (1), including decisions and determinations of the Department of Veterans Affairs relating to such claims.

''(4) An estimate of the dose of radiation to which each veteran listed in the Registry was exposed under the conditions described in section 1710(e)(1)(B) of such title.

''(c) VETERANS SUBMITTING CLAIMS BEFORE DATE OF ENACTMENT.—If in the case of a veteran described in subsection (b)(1) the application or claim referred to in such subsection was submitted or filed before October 28, 1986, the Secretary shall include in the Registry, to the extent feasible, such veteran's name and the data and information described in subsection (b) relating to the veteran.

''(d) CONSOLIDATION OF EXISTING INFORMATION.—(1) For the purpose of establishing and maintaining the Registry, the Secretary of Veterans Affairs shall compile and consolidate—

''(A) relevant information maintained by the Veterans Benefits Administration and the Veterans Health Administration of the Department of Veterans Affairs;

''(B) relevant information maintained by the Defense Nuclear Agency of the Department of Defense; and

''(C) any relevant information maintained by any other element of the Department of Veterans Affairs or the Department of Defense.

''(2) With respect to a veteran whose name is included in the Registry and for whom the information in the Registry is not complete, the Secretary of Veterans Affairs shall include information described in paragraph (1) with respect to that veteran (A) to the extent that such information is reasonably available in records of the Department of Veterans Affairs or Department of Defense, or (B) if such information is submitted by the veteran after October 28, 1986.

''(e) DEPARTMENT OF DEFENSE INFORMATION.—The Secretary of Defense shall furnish to the Secretary of Veterans Affairs such information maintained by the Department of Defense as the Secretary of Veterans Affairs considers necessary to establish and maintain the Registry.

''(f) DEFINITION.—For the purpose of this section, the term 'veteran' has the meaning given that term in section 101(2) of title 38, United States Code, and includes a person who died in the active military, naval, or air service.

''(g) EFFECTIVE DATE.—The Registry shall be established not later than 180 days after the date of the enactment of this Act [Oct. 28, 1986].''

VETERANS' DIOXIN AND RADIATION EXPOSURE COMPENSATION STANDARDS; CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

Sections 1–3 of Pub. L. 98–542, as amended by Pub. L. 102–4, § 10(a), (b), Feb. 6, 1991, 105 Stat. 19, provided that:

''SHORT TITLE

''SECTION 1. This Act [amending this section, enacting provisions set out as notes under this section, and amending provisions set out as notes under this section and section 1116 of this title] may be cited as the 'Veterans' Dioxin and Radiation Exposure Compensation Standards Act'.

''FINDINGS

''SEC. 2. The Congress makes the following findings:

''(1) Veterans who served in the Republic of Vietnam during the Vietnam era and veterans who participated in atmospheric nuclear tests or the American occupation of Hiroshima or Nagasaki, Japan, are deeply concerned about possible long-term health effects of exposure to herbicides containing dioxin or to ionizing radiation.

''(2) There is scientific and medical uncertainty regarding such long-term adverse health effects.

''(3) In section 102 of Public Law 97–22 [see Tables for classification], the Congress responded to that uncertainty by authorizing priority medical care at Veterans' Administration [now Department of Veterans Affairs] facilities for any disability of a veteran who may have been so exposed (even though there is insufficient medical evidence linking such disability with such exposure) unless the disability is found to have resulted from a cause other than the exposure.

''(4) The Congress has further responded to that medical and scientific uncertainty by requiring, in section 307 of Public Law 96–151 [set out as a note under section 1116 of this title] and section 601 of Public Law 98–160 [set out below], the conduct of thorough epidemiological studies of the health effects experienced by veterans in connection with exposure both to herbicides containing dioxin and (if not determined to be scientifically infeasible) to radiation, and by requiring in Public Law 97–414 [see Tables for classification], the development of radioepidemiological tables setting forth the probabilities of causation between various cancers and exposure to radiation.

''(5) There is some evidence that most types of leukemia, malignancies of the thyroid, female breast, lung, bone, liver, and skin, and polycythemia vera are associated with exposure to certain levels of ionizing radiation.

''(6) As of the date of the enactment of this Act [Oct. 24, 1984], there are sixty-six federally sponsored research projects being conducted relating to herbicides containing dioxin, at a cost to the Federal Government in excess of $130,000,000 and, as of 1981, federally sponsored research projects relating to ionizing radiation were costing the Federal Government more than $115,000,000.

''(7) The initial results of one project—an epidemiological study, conducted by the United States Air Force School of Aerospace Medicine, of the health status of the 'Ranch Hand' veterans who carried out the loading and aerial spraying of herbicides containing dioxin in Vietnam and in the process came into direct skin contact with such herbicides in their most concentrated liquid form—were released on February 24, 1984, and contained the conclusion 'that there is insufficient evidence to support a cause and effect relationship between herbicide exposure and adverse health in the Ranch Hand group at this time'.

''(8) The 'film badges' which were originally issued to members of the Armed Forces in connection with the atmospheric nuclear test program have previously constituted a primary source of dose information for veterans (and survivors of veterans) filing claims for Veterans' Administration [now Department of Veterans Affairs] disability compensation or dependency and indemnity compensation in connection with exposure to radiation.

''(9) These film badges often provide an incomplete measure of radiation exposure, since they were not capable of recording inhaled, ingested, or neutron doses (although the Defense Nuclear Agency currently has the capability to reconstruct individual estimates of such doses), were not issued to most of the participants in nuclear tests, often provided questionable readings because they were shielded during the detonation, and were worn for only limited periods during and after each nuclear detonation.

''(10) Standards governing the reporting of dose estimates in connection with radiation-related claims for Veterans' Administration [now Department of Veterans Affairs] disability compensation vary among the several branches of the Armed Forces, and no uniform minimum standards exist.

''(11) The Veterans' Administration [now Department of Veterans Affairs] has not promulgated permanent regulations setting forth specific guidelines, standards, and criteria for the adjudication of claims for Veterans' Administration disability compensation based on exposure to herbicides containing dioxin or to ionizing radiation.

''(12) Such claims (especially those involving health effects with long latency periods) present adjudicatory issues which are significantly different from issues generally presented in claims based upon the usual types of injuries incurred in military service.

''(13) It has always been the policy of the Veterans' Administration [now Department of Veterans Affairs] and is the policy of the United States, with respect to individual claims for service connection of diseases and disabilities, that when, after consideration of all evidence and material of record, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of a claim, the benefit of the doubt in resolving each such issue shall be given to the claimant.

''PURPOSE

''SEC. 3. The purpose of this Act is to ensure that Veterans' Administration [now Department of Veterans Affairs] disability compensation is provided to veterans who were exposed to ionizing radiation in connection with atmospheric nuclear tests or in connection with the American occupation of Hiroshima or Nagasaki, Japan, for all disabilities arising after that service that are connected, based on sound scientific and medical evidence, to such service (and that Veterans' Administration dependency and indemnity compensation is provided to survivors of those veterans for all deaths resulting from such disabilities).''

[Amendment by Pub. L. 102–4 to sections 2 and 3 of Pub. L. 98–542, set out above, effective at the end of the six-month period beginning on Feb. 6, 1991, except as otherwise provided, see section 10(e) of Pub. L. 102–4, set out below under sections 5 to 7 of Pub. L. 98–542.]

REQUIREMENT FOR AND CONTENT OF REGULATIONS; ADVISORY COMMITTEE ON ENVIRONMENTAL STANDARDS; NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

Sections 5–7 of Pub. L. 98–542, as amended by Pub. L. 100–321, § 2(c), May 20, 1988, 102 Stat. 486; Pub. L. 102–4, § 10(c), (d), Feb. 6, 1991, 105 Stat. 19, 20; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''REQUIREMENT FOR AND CONTENT OF REGULATIONS

''SEC. 5. (a) In carrying out the responsibilities of the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] under section 1154(a)(2) [formerly 354(a)(2)] of title 38, United States Code, and in order to promote consistency in claims processing and decisions, the Administrator shall prescribe regulations to—

''(1) establish guidelines and (where appropriate) standards and criteria for the resolution of claims for benefits under laws administered by the Veterans' Administration [now Department of Veterans Affairs] where the criteria for eligibility for a benefit include a requirement that a death or disability be service connected and the claim of service connection is based on a veteran's exposure during service in connection with such veteran's participation in atmospheric nuclear tests or with the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, to ionizing radiation from the detonation of a nuclear device; and

''(2) ensure that, with respect to those claims, the policy of the United States described in section 2(13) [set out above] is carried out.

''(b)(1)(A) The guidelines required to be established in regulations prescribed under this section shall include guidelines governing the evaluation of the findings of scientific studies relating to the possible increased risk of adverse health effects of exposure to ionizing radiation. Those guidelines shall require that, in the evaluation of those studies, the Administrator [now Secretary] shall take into account whether the results are statistically significant, are capable of replication, and withstand peer review.

''(B) The evaluations described in subparagraph (A) shall be made by the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] after receiving the advice of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards (established under section 6). Those evaluations shall be published in the notice section of the Federal Register.

''(C) The standards and criteria required to be established in regulations prescribed under this section shall include provisions governing the use in the adjudication of individual claims of the Administrator's [now Secretary's] evaluations made under subparagraph (B).

''(2)(A)(i) In prescribing regulations under this section, the Administrator [now Secretary] (after receiving the advice of the Advisory Committee and of the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards regarding the diseases described in subparagraph (B)) shall make determinations, based on sound medical and scientific evidence, with respect to each disease described in subparagraph (B) as to whether service connection shall, subject to division (ii) of this subparagraph, be granted in the adjudication of individual cases. In making determinations regarding such diseases, the Administrator shall give due regard to the need to maintain the policy of the United States with respect to the resolution of contested issues as set forth in section 2(13) [set out above]. The Administrator shall set forth in such regulations such determinations, with any specification (relating to exposure or other relevant matter) of limitations on the circumstances under which service connection shall be granted, and shall implement such determinations in accordance with such regulations.

''(ii) If the Administrator [now Secretary] makes a determination, pursuant to this subparagraph, that service connection shall be granted in the case of a disease described in subparagraph (B), the Administrator shall specify in such regulations that, in the adjudication of individual cases, service connection shall not be granted where there is sufficient affirmative evidence to the contrary or evidence to establish that an intercurrent injury or disease which is a recognized cause of the described disease has been suffered between the date of separation from service and the onset of such disease or that the disability is due to the veteran's own willful misconduct.

''(iii) With regard to each disease described in subparagraph (B), the Administrator [now Secretary] shall include in the regulations prescribed under this section provisions specifying the factors to be considered in adjudicating issues relating to whether or not service connection should be granted in individual cases and the circumstances governing the granting of service connection for such disease.

''(B) The diseases referred to in subparagraph (A) are those specified in section 2(5) [set out above] and any other disease with respect to which the Administrator [now Secretary] finds (after receiving and considering the advice of the Scientific Council established under section 6(d)(2)) that there is sound scientific or medical evidence indicating a connection to exposure to ionizing radiation, in the case of a veteran who was exposed to ionizing radiation in connection with such veteran's participation in an atmospheric nuclear test or with the American occupation of Hiroshima or Nagasaki, Japan, before July 1, 1946.

''(3) The regulations prescribed under this section shall include—

''(A) specification of the maximum period of time after exposure to such ionizing radiation for the development of those diseases; and

''(B) a requirement that a claimant filing a claim based upon a veteran's exposure to ionizing radiation from the detonation of a nuclear device may not be required to produce evidence substantiating the veteran's exposure during active military, naval, or air service if the information in the veteran's service records and other records of the Department of Defense is not inconsistent with the claim that the veteran was present where and when the claimed exposure occurred.

''(c)(1) The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall develop the regulations required by this section (and any amendment to those regulations) through a public review and com-

ment process in accordance with the provisions of section 553 of title 5, United States Code. That process may include consideration by the Administrator of the recommendations of the Veterans' Advisory Committee on Environmental Hazards and the Scientific Council thereof (established under section 6) with respect to the proposed regulations, and that process shall include consideration by the Administrator of the recommendations of the Committee and the Council with respect to the final regulations and proposed and final amendments to such regulations. The period for public review and comment shall be completed not later than ninety days after the proposed regulations or proposed amendments are published in the Federal Register.

''(2)(A) Not later than one hundred and eighty days after the date of the enactment of this Act [Oct. 24, 1984], the Administrator [now Secretary] shall develop and publish in the Federal Register a proposed version of the regulations required to be prescribed by this section.

''(B) Not later than three hundred days after the date of the enactment of this Act [Oct. 24, 1984], the Administrator [now Secretary] shall publish in the Federal Register the final regulations (together with explanations of the bases for the guidelines, standards, and criteria contained therein) required to be prescribed by this section.

''ADVISORY COMMITTEE ON ENVIRONMENTAL HAZARDS

''SEC. 6. (a) The advisory committee referred to in subsections (b) and (c) of section 5, to be known as the Veterans' Advisory Committee on Environmental Hazards (hereinafter in this section referred to as the 'Committee') shall consist of nine members appointed by the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] after requesting and considering recommendations from veteran organizations, including—

''(1) six individuals (of whom none may be members of the Armed Forces on active duty or employees of the Veterans' Administration [now Department of Veterans Affairs] or the Department of Defense and not more than three may be employees of other Federal departments or agencies), appointed, after requesting and considering the recommendations of the heads of Federal entities with particular expertise in biomedical and environmental science, including—

''(A) three individuals who are recognized medical or scientific authorities in fields pertinent to understanding the health effects of exposure to ionizing radiation; and

''(B) three individuals who are recognized medical or scientific authorities in fields, such as epidemiology and other scientific disciplines, pertinent to determining and assessing the health effects of exposure to ionizing radiation in exposed populations; and

''(2) three individuals from the general public, including at least one disabled veteran, having a demonstrated interest in and experience relating to veterans' concerns regarding exposure to ionizing radiation.

''(b) The Committee shall include, as ex officio, nonvoting members, the Chief Medical Director and the Chief Benefits Director of the Veterans' Administration [now Under Secretary for Health and Under Secretary for Benefits of the Department of Veterans Affairs], or their designees.

''(c) The Committee shall submit to the Administrator [now Secretary] any recommendations it considers appropriate for administrative or legislative action.

''(d)(1) The six members of the Committee described in subsection (a)(1) shall, in addition to serving as members of the Committee, constitute a Scientific Council of the Committee (hereinafter in this section referred to as the 'Council').

''(2) The Council shall have responsibility for evaluating scientific studies relating to possible adverse health effects of exposure to ionizing radiation.

''(3) The Council shall make findings and evaluations regarding pertinent scientific studies and shall submit to the Committee, the Administrator [now Secretary], and the Committees on Veterans' Affairs of the Senate and House of Representatives directly periodic reports on such findings and evaluations.

''(e) The Administrator [now Secretary] shall designate one of the members to chair the Committee and another member to chair the Council.

''(f) The Administrator [now Secretary] shall determine the terms of service and pay and allowances of members of the Committee, except that a term of service of any member may not exceed three years. The Administrator may reappoint any member for additional terms of service.

''(g) The Administrator [now Secretary] shall provide administrative support services and fiscal support for the Committee.

''NUCLEAR RADIATION MATTERS INVOLVING OTHER AGENCIES

''SEC. 7. (a) In connection with the duties of the Director of the Defense Nuclear Agency, as Department of Defense Executive Agent for the Nuclear Test Personnel Review Program, relating to the preparation of radiation dose estimates with regard to claims for Veterans' Administration [now Department of Veterans Affairs] disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code—

''(1) the Secretary of Defense shall prescribe guidelines (and any amendment to those guidelines) through a public review and comment process in accordance with the provisions of section 553 of title 5, United States Code—

''(A) specifying the minimum standards governing the preparation of radiation dose estimates in connection with claims for such compensation,

''(B) making such standards uniformly applicable to the several branches of the Armed Forces, and

''(C) requiring that each such estimate furnished to the Veterans' Administration [now Department of Veterans Affairs] and to any veteran or survivor include information regarding all material aspects of the radiation environment to which the veteran was exposed and which form the basis of the claim, including inhaled, ingested, and neutron doses; and

''(2) the Secretary of Health and Human Services, through the Director of the National Institutes of Health, shall—

''(A) conduct a review of the reliability and accuracy of scientific and technical devices and techniques (such as 'whole body counters') which may be useful in determining previous radiation exposure;

''(B) submit to the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] and the Committees on Veterans' Affairs of the House of Representatives and the Senate, not later than July 1, 1985, a report regarding the results of such review, including information concerning the availability of such devices and techniques, the categories of exposed individuals as to whom use of such devices and techniques may be appropriate, and the reliability and accuracy of dose estimates which may be derived from such devices and techniques; and

''(C) enter into an interagency agreement with the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] for the purpose of assisting the Administrator in identifying agencies or other entities capable of furnishing services involving the use of such devices and techniques.

''(b) The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs], in resolving material differences between a radiation dose estimate, from a credible source, submitted by a veteran or survivor and a radiation dose estimate prepared and transmitted by the Director of the Defense Nuclear Agency, shall provide for the preparation of a radiation dose estimate by an independent expert, who shall be selected by the Director of the National Institutes of Health and who

shall not be affiliated with the Defense Nuclear Agency, and the Administrator shall provide for the consideration of such independent estimate in connection with the adjudication of the claim for Veterans' Administration [now Department of Veterans Affairs] compensation.''

[Pub. L. 102–4, § 10(e), Feb. 6, 1991, 105 Stat. 20, as amended by Pub. L. 102–86, title V, § 503(b)(2), Aug. 14, 1991, 105 Stat. 425, provided that:

[''(1) Except as provided in paragraph (2), the amendments made by this section [amending sections 2 and 3 of Pub. L. 98–542, set out above, and sections 5 and 6 of Pub. L. 98–542, set out above] shall take effect at the end of the two-month period beginning on the date of the enactment of the Veterans' Benefits Programs Improvement Act of 1991 [Aug. 14, 1991].

[''(2)(A) If the Secretary of Veterans Affairs determines before the end of such period that the Environmental Hazards Advisory Committee established under section 6 of Public Law 98–542 (38 U.S.C. 354 note) [set out above] has completed its responsibilities under that section and the directives of the Secretary pursuant to the Nehmer case court order, the amendments made by this section shall take effect as of the date of such determination.

[''(B) For purposes of this paragraph, the term 'Nehmer case court order' means the court order dated May 2, 1989, in the case of Nehmer v. Department of Veterans Affairs, in the United States district court for the northern district of California (civil action docket number C–86–6160 TEH).

[''(3) If the Secretary makes a determination under paragraph (2), the Secretary shall promptly publish in the Federal Register a notice that such determination has been made and that such amendments have thereby taken effect as of the date of such determination.'']

IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE TO IONIZING RADIATION BEFORE JANUARY 1, 1970

Section 10 of Pub. L. 98–542, as added by Pub. L. 102–578, § 3, Oct. 30, 1992, 106 Stat. 4774, provided that:

''(a) IN GENERAL.—(1) In order to determine whether activities (other than the tests or occupation activities referred to in section 5(a)(1)(B) [probably means section 5(a)(1), set out above]) resulted in the exposure of veterans to ionizing radiation during the service of such veterans that occurred before January 1, 1970, and whether adverse health effects have been observed or may have resulted from such exposure in a significant number of such veterans, the Advisory Committee established under section 6 [set out above] shall—

''(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service;

''(B) identify any activity during which significant numbers of veterans received exposure; and

''(C) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service.

''(2) Upon the request of the Advisory Committee, the Secretary of Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph.

''(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(C) not later than August 1, 1993.

''(b) INVESTIGATION PLAN AND REPORT.—(1) Upon receipt of the report referred to in subparagraph (C) of subsection (a)(1), the Secretary of Veterans Affairs shall—

''(A) identify which of the activities referred to in that subparagraph, if any, that the Secretary intends to investigate more fully for the purpose of making the determination referred to in that subsection; and

''(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

''(2) Not later than December 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

''(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification;

''(B) a copy of the report of the Advisory Committee referred to in subsection (a)(1)(C); and

''(C) the plan referred to in paragraph (1)(B).''

INTERIM BENEFITS FOR DISABILITY OR DEATH IN CERTAIN CASES

Section 9 of Pub. L. 98–542 provided for payment of interim monthly disability benefits to veterans who had served in Vietnam during Vietnam era and who had diseases chloracne and porphyria cutanea tarda which manifested themselves within one year after date of veteran's most recent departure from Vietnam, but with no such interim benefits to be paid after Sept. 30, 1986.

RADIATION EXPOSURE STUDY AND GUIDE

Pub. L. 98–160, title VI, Nov. 21, 1983, 97 Stat. 1006, as amended by Pub. L. 98–542, § 8(b), Oct. 24, 1984, 98 Stat. 2732, provided for the conduct of an epidemiological study of long-term adverse health effects of exposure to ionizing radiation from detonation of nuclear devices in connection with tests of such devices or in connection with occupation of Hiroshima and Nagasaki, Japan, between Sept. 11, 1945, and July 1, 1946, and provided for reports to Congress on studies made together with recommendations as to necessary legislation.

§ 1155. Authority for schedule for rating disabilities

The Secretary shall adopt and apply a schedule of ratings of reductions in earning capacity from specific injuries or combination of injuries. The ratings shall be based, as far as practicable, upon the average impairments of earning capacity resulting from such injuries in civil occupations. The schedule shall be constructed so as to provide ten grades of disability and no more, upon which payments of compensation shall be based, namely, 10 percent, 20 percent, 30 percent, 40 percent, 50 percent, 60 percent, 70 percent, 80 percent, 90 percent, and total, 100 percent. The Secretary shall from time to time readjust this schedule of ratings in accordance with experience. However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1125, § 355; Pub. L. 98–223, title I, § 101(c), Mar. 2, 1984, 98 Stat. 38; renumbered § 1155 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title I, § 103(a), Aug. 14, 1991, 105 Stat. 414.)

AMENDMENTS

1991—Pub. L. 102–86 amended this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by inserting at end ''However, in no event shall such a readjustment in the rating schedule cause a veteran's disability rating in effect on the effective date of the readjustment to be reduced unless an improvement in the veteran's disability is shown to have occurred.''

Pub. L. 102–83, § 5(a), renumbered section 355 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1984—Pub. L. 98–223 substituted ''percent'' for ''per centum'' wherever appearing.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 103(b) of Pub. L. 102–86 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with regard to changes in rating schedules that take effect after the date of the enactment of this Act [Aug. 14, 1991].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

[§ 1156. Vacant]

CODIFICATION

Prior to renumbering of sections 301 to 363 of this chapter as sections 1101 to 1163 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 356 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1125, which provided for a minimum rating for veterans with arrested tuberculosis, was repealed by Pub. L. 90–493, § 4, Aug. 19, 1968, 82 Stat. 809, but repeal not applicable in case of veteran who on Aug. 19, 1968, was receiving or entitled to receive compensation for tuberculosis which in the judgment of the Administrator had reached a condition of complete arrest.

§ 1157. Combination of certain ratings

The Secretary shall provide for the combination of ratings and pay compensation at the rates prescribed in subchapter II of this chapter to those veterans who served during a period of war and during any other time, who have suffered disability in line of duty in each period of service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1125, § 357; renumbered § 1157 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 357 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

§ 1158. Disappearance

Where a veteran receiving compensation under this chapter disappears, the Secretary may pay the compensation otherwise payable to the veteran to such veteran's spouse, children, and parents. Payments made to such spouse, child, or parent under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1125, § 358; Pub. L. 86–212, Sept. 1, 1959, 73 Stat. 436; Pub. L. 94–433, title IV, § 404(21), Sept. 30, 1976, 90 Stat. 1379; renumbered § 1158 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 358 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1976—Pub. L. 94–433 struck out '', in his discretion,'' after ''Administrator'' and substituted ''such veteran's spouse'' for ''his wife'' and ''such spouse'' for ''a wife''.

1959—Pub. L. 86–212 substituted ''a veteran'' for ''an incompetent veteran''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

§ 1159. Protection of service connection

Service connection for any disability or death granted under this title which has been in force for ten or more years shall not be severed on or after January 1, 1962, except upon a showing that the original grant of service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge. The mentioned period shall be computed from the date determined by the Secretary as the date on which the status commenced for rating purposes.

(Added Pub. L. 86–501, § 1, June 10, 1960, 74 Stat. 195, § 359; amended Pub. L. 87–825, § 6, Oct. 15, 1962, 76 Stat. 950; renumbered § 1159 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 359 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1962—Pub. L. 87–825 provided for computation of the period from the date the administrator determines as the date the status commenced for rating purposes.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87–825, set out as a note under section 110 of this title.

§ 1160. Special consideration for certain cases of loss of paired organs or extremities

(a) Where a veteran has suffered—

(1) blindness in one eye as a result of service-connected disability and blindness in the other eye as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

(2) the loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of non-service-connected disability not the result of the veteran's own willful misconduct;

(3) deafness compensable to a degree of 10 percent or more in one ear as a result of service-connected disability and deafness in the other ear as the result of non-service-connected disability not the result of the veteran's own willful misconduct;

(4) the loss or loss of use of one hand or one foot as a result of service-connected disability and the loss or loss of use of the other hand or foot as a result of non-service-connected disability not the result of the veteran's own willful misconduct; or

(5) permanent service-connected disability of one lung, rated 50 percent or more disabling,

in combination with a non-service-connected disability of the other lung that is not the result of the veteran's own willful misconduct,

the Secretary shall assign and pay to the veteran the applicable rate of compensation under this chapter as if the combination of disabilities were the result of service-connected disability.

(b) If a veteran described in subsection (a) of this section receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such subsection, the increase in the rate of compensation otherwise payable under this section shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

(Added Pub. L. 87–610, § 1, Aug. 28, 1962, 76 Stat. 406, § 360; amended Pub. L. 89–311, § 3(a), (b), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 94–433, title IV, § 404(22), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98–160, title VII, § 702(3), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99–576, title I, § 109(a)(1), Oct. 28, 1986, 100 Stat. 3253; renumbered § 1160 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 107–330, title I, § 103, Dec. 6, 2002, 116 Stat. 2821.)

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–330 substituted ''deafness compensable to a degree of 10 percent or more in one ear'' for ''total deafness in one ear'' and ''deafness in the other ear'' for ''total deafness in the other ear''.

1991—Pub. L. 102–83, § 5(a), renumbered section 360 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in concluding provisions.

1986—Pub. L. 99–576 amended section generally, substituting ''loss of paired organs or extremities'' for ''blindness or bilateral kidney involvement or bilateral deafness'' in section catchline. Prior to amendment, text of section read as follows: ''Where any veteran (1) has suffered blindness in one eye as a result of service-connected disability and has suffered blindness in the other eye as a result of non-service-connected disability not the result of such veteran's own willful misconduct, or (2) has suffered the loss or loss of use of one kidney as a result of service-connected disability, and has suffered severe involvement of the other kidney such as to cause total disability, as a result of non-service-connected disability not the result of such veteran's own willful misconduct, or (3) has suffered total deafness in one ear as a result of service-connected disability and has suffered total deafness in the other ear as the result of non-service-connected disability not the result of such veteran's own willful misconduct, the Administrator shall assign and pay to the veteran concerned the applicable rate of compensation under this chapter as if such veteran's blindness in both eyes or such bilateral kidney involvement were the result of service-connected disability.''

1983—Pub. L. 98–160 substituted ''(1) has suffered'' for ''has suffered (1)''.

1976—Pub. L. 94–433 substituted ''such veteran's'' for ''his'' wherever appearing.

1965—Pub. L. 89–311 added cl. (3) referring to total deafness in one ear as a result of service-connected disability and total deafness in the other ear as the result of non-service-connected disability not the result of his own willful misconduct, inserted reference to total deafness in both ears and, in section catchline, inserted reference to bilateral deafness.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 109(c) of Pub. L. 99–576 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and section 314 [now 1114] of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 1986].

''(2) In the case of an award of compensation for a disability described in clause (1), (2), (3), or (5) of subsection (a) of section 360 [now 1160] of title 38, United States Code, as amended by subsection (a) of this section, subsection (b) of such section shall apply only to awards of compensation made on or after the date of the enactment of this Act [Oct. 28, 1986].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

§ 1161. Payment of disability compensation in disability severance cases

The deduction of disability severance pay from disability compensation, as required by section 1212(c) of title 10, shall be made at a monthly rate not in excess of the rate of compensation to which the former member would be entitled based on the degree of such former member's disability as determined on the initial Department rating.

(Added Pub. L. 91–241, May 7, 1970, 84 Stat. 203, § 361; amended Pub. L. 94–433, title IV, § 404(23), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98–160, title VII, § 702(4), Nov. 21, 1983, 97 Stat. 1009; renumbered § 1161 and amended Pub. L. 102–83, §§ 4(a)(3), (4), 5(a), Aug. 6, 1991, 105 Stat. 404, 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 361 of this title as this section.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1983—Pub. L. 98–160 struck out ''United States Code,'' after ''title 10,''.

1976—Pub. L. 94–433 substituted ''such former member's'' for ''his''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

§ 1162. Clothing allowance

The Secretary under regulations which the Secretary shall prescribe, shall pay a clothing allowance of $600 per year to each veteran who—

(1) because of a service-connected disability, wears or uses a prosthetic or orthopedic appliance (including a wheelchair) which the Secretary determines tends to wear out or tear the clothing of the veteran; or

(2) uses medication which (A) a physician has prescribed for a skin condition which is due to a service-connected disability, and (B) the Secretary determines causes irreparable damage to the veteran's outergarments.

(Added Pub. L. 92–328, title I, § 103(a), June 30, 1972, 86 Stat. 394, § 362; amended Pub. L. 94–71, title I, § 103, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94–433, title III, § 301, title IV, § 404(24), Sept. 30, 1976, 90 Stat. 1377, 1379; Pub. L. 95–117, title III, § 301, Oct. 3, 1977, 91 Stat. 1065; Pub. L. 95–479, title I, § 103, Oct. 18, 1978, 92 Stat. 1562; Pub. L. 96–128, title I, § 103, Nov. 28, 1979, 93 Stat. 984; Pub. L. 96–385, title I, § 103, Oct. 7, 1980, 94 Stat. 1529; Pub. L. 97–66, title I, § 103, Oct. 17, 1981, 95 Stat. 1027; Pub. L. 97–253, title IV, § 405(d), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§ 103, 107, Oct. 14, 1982, 96 Stat. 1430, 1431; Pub. L. 98–223, title I, § 103, Mar. 2, 1984, 98 Stat. 38; Pub. L. 98–543, title I, § 103, Oct. 24, 1984, 98 Stat. 2736; Pub. L. 99–238, title I, § 103, Jan. 13, 1986, 99 Stat. 1766; Pub. L. 99–576, title I, § 103, Oct. 28, 1986, 100 Stat. 3251; Pub. L. 100–227, title I, § 103, Dec. 31, 1987, 101 Stat. 1553; Pub. L. 100–687, div. B, title XI, § 1103, Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, §§ 103, 112, Dec. 18, 1989, 103 Stat. 2063, 2065; Pub. L. 102–3, § 4, Feb. 6, 1991, 105 Stat. 8; renumbered § 1162, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 4, Nov. 12, 1991, 105 Stat. 986; Pub. L. 103–78, § 3, Aug. 13, 1993, 107 Stat. 768; Pub. L. 103–140, § 4, Nov. 11, 1993, 107 Stat. 1486; Pub. L. 105–98, § 4, Nov. 19, 1997, 111 Stat. 2156; Pub. L. 106–118, § 4, Nov. 30, 1999, 113 Stat. 1602; Pub. L. 107–94, § 4, Dec. 21, 2001, 115 Stat. 901; Pub. L. 107–330, title III, § 309(c), Dec. 6, 2002, 116 Stat. 2830; Pub. L. 108–454, title III, § 307(c), Dec. 10, 2004, 118 Stat. 3613.)

AMENDMENTS

2004—Pub. L. 108–454 substituted ''$600'' for ''$588''.

2002—Pub. L. 107–330 substituted ''$588'' for ''$580''.

2001—Pub. L. 107–94 substituted ''$580'' for ''$546''.

1999—Pub. L. 106–118 substituted ''$546'' for ''$528''.

1997—Pub. L. 105–98 substituted ''$528'' for ''$478''.

1993—Pub. L. 103–140 substituted ''$478'' for ''$466''.

Pub. L. 103–78 substituted ''$466'' for ''$452''.

1991—Pub. L. 102–152 substituted ''$452'' for ''$436''.

Pub. L. 102–83 renumbered section 362 of this title as this section.

Pub. L. 102–3 substituted ''$436'' for ''$414''.

1989—Pub. L. 101–237, § 112, substituted ''Secretary under'' for ''Administrator under'' and ''Secretary shall'' for ''Administrator shall'', and substituted ''who—'' and pars. (1) and (2) for ''who because of disability which is compensable under the provisions of this chapter, wears or uses prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.''

Pub. L. 101–237, § 103, substituted ''$414'' for ''$395''.

1988—Pub. L. 100–687 substituted ''$395'' for ''$380''.

1987—Pub. L. 100–227 substituted ''$380'' for ''$365''.

1986—Pub. L. 99–576 substituted ''$365'' for ''$360''.

Pub. L. 99–238 substituted ''$360'' for ''$349''.

1984—Pub. L. 98–543 substituted ''$349'' for ''$338''.

Pub. L. 98–223 substituted ''$338'' for ''$327''.

1982—Pub. L. 97–306, §§ 103, 107, 108, substituted ''$327'' for ''$305'' and repealed amendment made by Pub. L. 97–253, § 405(d), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(d), (h), eff. Jan. 1, 1983, substituted ''$304'' for ''$305'' after ''clothing allowance of''.

1981—Pub. L. 97–66 substituted ''$305'' for ''$274''.

1980—Pub. L. 96–385 substituted ''$274'' for ''$240''.

1979—Pub. L. 96–128 substituted ''$240'' for ''$218''.

1978—Pub. L. 95–479 substituted ''$218'' for ''$203''.

1977—Pub. L. 95–117 substituted ''$203'' for ''$190''.

1976—Pub. L. 94–433, §§ 301, 404(24), substituted ''$190'' for ''$175'' and ''the Administrator shall prescribe'' for ''he shall prescribe''.

1975—Pub. L. 94–71 substituted $175 for $150.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 103 of Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see sec-

tion 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92–328, set out as an Effective Date of 1972 Amendment note under section 1114 of this title.

REPEAL

Section 405(d) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§ 107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

§ 1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings

(a)(1) The disability rating of a qualified veteran who begins to engage in a substantially gainful occupation after January 31, 1985, may not be reduced on the basis of the veteran having secured and followed a substantially gainful occupation unless the veteran maintains such an occupation for a period of 12 consecutive months.

(2) For purposes of this section, the term ''qualified veteran'' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

(b) The Secretary shall make counseling services described in section 3104(a)(2) of this title and placement and postplacement services described in section 3104(a)(5) of this title available to each qualified veteran (whether or not the veteran is participating in a vocational rehabilitation program under chapter 31 of this title).

(c)(1) In the case of each award after January 31, 1985, of a rating of total disability described in subsection (a)(2) of this section to a veteran, the Secretary shall provide to the veteran, at the time that notice of the award is provided to the veteran, a statement providing—

(A) notice of the provisions of this section;

(B) information explaining the purposes and availability of and eligibility for, and the procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title; and

(C) a summary description of the scope of services and assistance available under that chapter.

(2) After providing the notice required under paragraph (1) of this subsection, the Secretary shall offer the veteran the opportunity for an evaluation under section 3106(a) of this title.

(Added Pub. L. 98–543, title I, § 111(a)(1), Oct. 24, 1984, 98 Stat. 2738, § 363; amended Pub. L. 100–687, div. B, title XIII, § 1301, Nov. 18, 1988, 102 Stat. 4127; renumbered § 1163 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–291, § 2(a), May 20, 1992, 106 Stat. 178; Pub. L. 102–568, title IV, § 401(a)–(d)(1), Oct. 29, 1992, 106 Stat. 4336.)

AMENDMENTS

1992—Pub. L. 102–568, § 401(d)(1), substituted ''Trial work periods and vocational rehabilitation for certain veterans with total disability ratings'' for ''Temporary program for trial work periods and vocational rehabilitation for certain veterans with total disability ratings'' as section catchline.

Subsec. (a)(1). Pub. L. 102–568, § 401(a)(1), substituted ''after January 31, 1985,'' for ''during the program period''.

Subsec. (a)(2). Pub. L. 102–568, § 401(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For purposes of this section:

''(A) The term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.

''(B) The term 'program period' means the period beginning on February 1, 1985, and ending on December 31, 1992.''

Pub. L. 102–291 substituted ''December 31, 1992'' for ''January 31, 1992'' in subpar. (B).

Subsec. (b). Pub. L. 102–568, § 401(b), substituted ''The Secretary'' for ''During the program period, the Secretary''.

Subsec. (c)(1). Pub. L. 102–568, § 401(c), substituted ''after January 31, 1985, of a rating of total disability described in subsection (a)(2)'' for ''during the program period of a rating of total disability described in subsection (a)(2)(A)''.

1991—Pub. L. 102–83, § 5(a), renumbered section 363 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3104(a)(2)'' for ''1504(a)(2)'' and ''3104(a)(5)'' for ''1504(a)(5)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3106(a)'' for ''1506(a)'' in par. (2).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in pars. (1) and (2).

1988—Subsec. (a)(2)(B). Pub. L. 100–687, § 1301(a), substituted ''1992'' for ''1989''.

Subsec. (c)(1). Pub. L. 100–687, § 1301(b)(2), (3), substituted ''(1) In'' for ''(1)(A) Except as provided in paragraph (4) of this subsection, in'', redesignated cls. (i),

(ii), and (iii) as subpars. (A), (B), and (C), respectively, and struck out former subpar. (B) which required that, after providing notice, Administrator arrange promptly for evaluation to determine whether achievement of vocational goal by veteran is feasible.

Subsec. (c)(2). Pub. L. 100–687, § 1301(b)(1), (3)(B), added par. (2) and struck out former par. (2) which related to failure of veteran to participate in evaluation, and reduction of disability rating.

Subsec. (c)(3). Pub. L. 100–687, § 1301(b)(1), struck out par. (3) which related to individualized written plan of vocational rehabilitation after completion of evaluation, and failure to pursue program of vocational rehabilitation described in such plan.

Subsec. (c)(4). Pub. L. 100–687, § 1301(b)(1), struck out par. (4) which read as follows: ''This subsection does not apply with respect to a veteran as to whom the Administrator determines that an evaluation of vocational rehabilitation potential or achievement of a vocational goal is not reasonably feasible.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2(d) of Pub. L. 102–291 provided that: ''The amendments made by subsections (a) through (c) [amending this section and sections 1524 and 1525 of this title] shall take effect as of January 31, 1992.''

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Section 2(e) of Pub. L. 102–291 provided that: ''The following actions of the Secretary of Veterans Affairs during the period beginning on February 1, 1992, and ending on the date of the enactment of this Act [May 20, 1992] are hereby ratified with respect to that period:

''(1) A failure to reduce the disability rating of a veteran who began to engage in a substantially gainful occupation during that period.

''(2) The provision of a vocational training program (including related evaluations and other related services) to a veteran under section 1524 of title 38, United States Code, and the making of related determinations under that section.

''(3) The provision of health care and services to a veteran pursuant to section 1525 of title 38, United States Code.''

INFORMATION; TEMPORARY PROGRAM; ADMINISTRATOR

Section 111(b) of Pub. L. 98–543 directed Administrator of Veterans' Affairs to provide, not later than Apr. 1, 1985, to certain veterans with service-connected disabilities, a statement containing information explaining subsec. (b) of this section, information explaining purposes and availability of and eligibility for, and procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title, and a summary description of scope of services and assistance available under chapter 31.

REPORT TO CONGRESSIONAL COMMITTEES; TRIAL PROGRAM

Section 111(c) of Pub. L. 98–543, as amended by Pub. L. 99–576, title VII, § 703(a)(2), Oct. 28, 1986, 100 Stat. 3303, directed Administrator of Veterans' Affairs to submit, not later than Apr. 15, 1988, to Committees on Veterans' Affairs of Senate and House of Representatives a report on results of implementation of this section during the three-year period beginning on Feb. 1, 1985.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
1301. Definitions.
1302. Determination of pay grade.
1303. Cost-of-living adjustments.
1304. Special provisions relating to surviving spouses.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

1310. Deaths entitling survivors to dependency and indemnity compensation.
1311. Dependency and indemnity compensation to a surviving spouse.
1312. Benefits in certain cases of in-service or service-connected deaths.
1313. Dependency and indemnity compensation to children.
1314. Supplemental dependency and indemnity compensation to children.
1315. Dependency and indemnity compensation to parents.
1316. Dependency and indemnity compensation in cases of prior deaths.
1317. Restriction on payments under this chapter.
1318. Benefits for survivors of certain veterans rated totally disabled at time of death.

SUBCHAPTER III—CERTIFICATIONS

1321. Certifications with respect to pay grade.
1322. Certifications with respect to social security entitlement.
1323. Certifications with respect to circumstances of death.

AMENDMENTS

1997—Pub. L. 105–33, title VIII, § 8031(b)(2), Aug. 5, 1997, 111 Stat. 669, added item 1303.

1991—Pub. L. 102–83, §§ 4(b)(3)(B), 5(b)(1), Aug. 6, 1991, 105 Stat. 405, 406, renumbered items 401 to 423 as 1301 to 1323, respectively, and in item 1323 substituted ''with respect to circumstances of death'' for ''by Administrator''.

1988—Pub. L. 100–687, div. B, title XIV, § 1403(a)(2), Nov. 18, 1988, 102 Stat. 4130, added item 418.

1982—Pub. L. 97–306, title I, § 113(b)(2), Oct. 14, 1982, 96 Stat. 1432, struck out item 403 ''Coverage of members of Reserve Officers' Training Corps''.

1976—Pub. L. 94–433, § 405(6), (8), Sept. 30, 1976, 90 Stat. 1379, substituted ''surviving spouses'' for ''widows'' in item 404 and ''surviving spouse'' for ''widow'' in item 411.

1969—Pub. L. 91–96, § 6, Oct. 27, 1969, 83 Stat. 145, substituted ''Determination of pay grade'' for ''Computation of basic pay'' in item 402 and ''Certifications with respect to pay grade'' for ''Certifications with respect to basic pay'' in item 421.

UNIFORMED SERVICES, PROMOTION OF MEMBERS IN MISSING STATUS; EFFECTIVE DATE

Provisions of section 552(a) of Title 37, Pay and Allowances of the Uniformed Services, for full effectiveness for all purposes of promotion of a member while in a missing status notwithstanding a determination of death before the making of the promotion effective as of Nov. 24, 1971, for the purposes of this chapter, see section 2 of Pub. L. 93–26, Apr. 27, 1973, 87 Stat. 26, set out as an Effective Date of 1973 Amendment note under section 552 of Title 37.

SUBCHAPTER I—GENERAL

§ 1301. Definitions

As used in this chapter—

The term ''veteran'' includes a person who died in the active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1126, § 401; Pub. L. 91–24, § 4(a), June 11, 1969, 83 Stat. 33; Pub. L. 91–96, § 5, Oct. 27, 1969, 83 Stat. 145; renumbered § 1301, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 401 of this title as this section.

1969—Pub. L. 91–96 struck out par. (1) which defined ''basic pay''.

Par. (1). Pub. L. 91–24 substituted ''sections 201, 202, 203, 204, 205, or 207 of title 37'' for ''sections 232(a), 232(e), or 308 of Title 37''.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

COST-OF-LIVING INCREASES IN COMPENSATION RATES

For limitation on increases in dependency and indemnity compensation payable under this chapter, see section 8005 of Pub. L. 101–508, set out as a note under section 1101 of this title.

§ 1302. Determination of pay grade

(a) With respect to a veteran who died in the active military, naval, or air service, such veteran's pay grade shall be determined as of the date of such veteran's death or as of the date of a promotion after death while in a missing status.

(b) With respect to a veteran who did not die in the active military, naval, or air service, such veteran's pay grade shall be determined as of—

(1) the time of such veteran's last discharge or release from active duty under conditions other than dishonorable; or

(2) the time of such veteran's discharge or release from any period of active duty for training or inactive duty training, if such veteran's death results from service-connected disability incurred during such period and if such veteran was not thereafter discharged or released under conditions other than dishonorable from active duty.

(c) The pay grade of any veteran described in section 106(b) of this title shall be that to which such veteran would have been assigned upon final acceptance or entry upon active duty.

(d) If a veteran has satisfactorily served on active duty for a period of six months or more in a pay grade higher than that specified in subsection (a) or (b) and any subsequent discharge or release from active duty was under conditions other than dishonorable, the higher pay grade shall be used if it will result in greater monthly payments to such veteran's surviving spouse under this chapter. The determination as to whether an individual has served satisfactorily for the required period in a higher pay grade shall be made by the Secretary of the department in which such higher pay grade was held.

(e) The pay grade of any person not otherwise described in this section, but who had a compensable status on the date of such person's death under laws administered by the Secretary, shall be determined by the head of the department under which such person performed the services by which such person obtained such status (taking into consideration such person's duties and responsibilities) and certified to the Secretary. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1126, § 402; Pub. L. 86–492, June 8, 1960, 74 Stat. 161; Pub. L. 89–622, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 91–96, § 1, Oct. 27, 1969, 83 Stat. 144; Pub. L. 92–169, § 2, Nov. 24, 1971, 85 Stat. 489; Pub. L. 94–433, title IV, § 405(1)–(3), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 102–54, § 14(b)(2), June 13, 1991, 105 Stat. 283; renumbered § 1302 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 402 of this title as this section.

Subsec. (d). Pub. L. 102–54 substituted ''department'' for ''Department''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before period at end of first sentence.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1976—Subsec. (a). Pub. L. 94–433, § 405(1), substituted ''such veteran's'' for ''his'' in two places.

Subsec. (b). Pub. L. 94–433, § 405(1), substituted ''such veteran's'' for ''his'' in introductory clause and items (1) and (2) and ''such veteran'' for ''he'' in item (2).

Subsec. (c). Pub. L. 94–433, § 405(2), substituted ''such veteran'' for ''he''.

Subsec. (d). Pub. L. 94–433, § 405(2), substituted ''such veteran's surviving spouse'' for ''his widow''.

Subsec. (e). Pub. L. 94–433, § 405(3), substituted ''such person's'' for ''his'' in two places and ''such person'' for ''he''.

1971—Subsec. (a). Pub. L. 92–169 provided, with regard to determination of veteran's pay grade at date of his death, that in the case of a promotion after death while the veteran is in a missing status, the pay grade determination date is the date of such promotion.

1969—Pub. L. 91–96 substituted ''Determination of pay grade'' for ''Computation of basic pay'' in section catchline.

Subsec. (a). Pub. L. 91–96 substituted provisions determining the pay grade of a veteran who died in the active service for provisions determining the basic pay of a veteran who died in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (b). Pub. L. 91–96 substituted provisions determining the pay grade of a veteran who did not die in the active service for provisions determining the basic pay of a veteran who did not die in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (c). Pub. L. 91–96 redesignated former subsec. (c)(1) as (c) and substituted ''pay grade'' for ''basic pay'' and ''assigned'' for ''entitled''. Former subsec. (c)(2) redesignated (e).

Subsec. (d). Pub. L. 91–96 substituted provisions determining the applicability of a higher pay grade of a veteran who had served six months or more in a pay grade higher than that specified in subsec. (a) or (b) for provisions determining the basic pay of a veteran who had served six months or more in a rank higher than that specified in the former provisions of subsec. (a) or (b).

Subsec. (e). Pub. L. 91–96 redesignated former subsec. (c)(2) as (e), substituted ''pay grade'' for ''basic pay'', and struck out ''and years of service'' after ''responsibilities''.

1966—Subsec. (d). Pub. L. 89–622 substituted ''any subsequent discharge or release from active duty was under conditions other than dishonorable'' for ''was so serving in such rank within one hundred and twenty days before death in the active military, naval, or air service or before last discharge or release from active duty under conditions other than dishonorable''.

1960—Subsec. (d). Pub. L. 86–492 added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3 of Pub. L. 92–169 provided that: ''For the purposes of chapter 13 of title 38, United States Code, this Act [amending this section and section 552 of Title 37, Pay and Allowances of the Uniformed Services] becomes effective upon the date of enactment [Nov. 24, 1971]. For all other purposes this Act becomes effective as of February 28, 1961.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 8 of Pub. L. 91–96 provided that: ''This Act [amending this section and sections 322 [now 1122], 401 [now 1301], 403, 411 [now 1311], and 421 [now 1321] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment [Oct. 27, 1969].''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–622 provided that: ''The amendment made by this Act [amending this section] shall take effect on the first day of the second calendar month after the date of enactment of this Act [Oct. 4, 1966].''

§ 1303. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2013 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b) For purposes of this section, the term ''social security increase'' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(Added Pub. L. 105–33, title VIII, § 8031(b)(1), Aug. 5, 1997, 111 Stat. 668; amended Pub. L. 107–103, title II, § 205, Dec. 27, 2001, 115 Stat. 990; Pub. L. 108–183, title VII, § 706, Dec. 16, 2003, 117 Stat. 2672.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''2013'' for ''2011''.

2001—Subsec. (a). Pub. L. 107–103 substituted ''2011'' for ''2002''.

§ 1304. Special provisions relating to surviving spouses

No dependency and indemnity compensation shall be paid to the surviving spouse of a veteran dying after December 31, 1956, unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 404; Pub. L. 90–77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94–433, title IV, § 405(4), (5), Sept. 30, 1976, 90 Stat. 1379; renumbered § 1304, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 404 of this title as this section.

1976—Pub. L. 94–433, § 405(4), (5), substituted ''surviving spouse'', ''such surviving spouse'', and ''such veteran'' for ''widow'', ''she'', and ''him'', respectively, in introductory clause and ''surviving spouses'' for ''widows'' in section catchline.

1967—Pub. L. 90–77 qualified widow of a veteran for receipt of compensation by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

§ 1310. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Secretary shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b) Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

(c) A person who receives a payment under the provisions of the Radiation Exposure Compensation Act of 1990 (42 U.S.C. 2210 note) shall not be deprived, by reason of the receipt of that payment, of receipt of dependency and indemnity compensation to which that person is otherwise entitled, but there shall be deducted from payment of such dependency and indemnity com-

pensation the amount of the payment under that Act.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 410; Pub. L. 94–433, title IV, § 405(7), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 95–479, title II, § 204, Oct. 18, 1978, 92 Stat. 1564; Pub. L. 97–306, title I, § 112(a), Oct. 14, 1982, 96 Stat. 1432; Pub. L. 100–687, div. B, title XIV, § 1403(b), Nov. 18, 1988, 102 Stat. 4131; renumbered § 1310 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–454, title III, § 302(b), Dec. 10, 2004, 118 Stat. 3610.)

REFERENCES IN TEXT

The Radiation Exposure Compensation Act, referred to in subsec. (c), is Pub. L. 101–426, Oct. 15, 1990, 104 Stat. 920, as amended, which is set out as a note under section 2210 of Title 42, The Public Health and Welfare.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–454 added subsec. (c).

1991—Pub. L. 102–83, § 5(a), renumbered section 410 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Subsecs. (b), (c). Pub. L. 100–687 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

''(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

''(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

''(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.''

1982—Subsec. (b)(1). Pub. L. 97–306 inserted ''or entitled to receive'' after ''was in receipt of''.

1978—Subsecs. (b), (c). Pub. L. 95–479 added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94–433 substituted ''such veteran's surviving spouse'' for ''his widow''.

Subsec. (b). Pub. L. 94–433 substituted ''surviving spouse'', ''such veteran'', and ''such veteran's'' for ''widow'', ''he'', and ''his'', respectively.

EFFECTIVE DATE OF 1982 AMENDMENT; RETROSPECTIVE PAYMENTS

EFFECTIVE DATE OF 2004 AMENDMENT

Subsec. (c) of this section effective with respect to dependency and indemnity compensation payments for months beginning after Mar. 26, 2002, see section 302(c) of Pub. L. 108–454, set out as a note under section 1112 of this title.

Section 112(b) of Pub. L. 97–306 provided that:

''(1) The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1982.

''(2)(A) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall pay an amount determined under subparagraph (B) to each person who would have been entitled to a payment under chapter 13 of title 38, United States Code, for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by subsection (a) [amending this section] had taken effect on October 1, 1978.

''(B) The amount of any payment to a person under subparagraph (A) is the amount equal to the total of all payments under chapter 13 of title 38, United States Code, that would have been made to that person for the period described in such subparagraph if the amendment made by subsection (a) [amending this section] had taken effect on October 1, 1978.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

GAO REPORT RELATING TO BENEFITS FOR SURVIVORS OF VETERANS AND MEMBERS OF ARMED FORCES

Pub. L. 102–568, title I, § 104, Oct. 29, 1992, 106 Stat. 4322, provided that:

''(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors of veterans.

''(b) CONTENTS OF REPORT.—The report shall include the following:

''(1) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

''(A) in the case of each current and proposed alternative survivor benefits program—

''(i) each benefit provided;

''(ii) the survivors entitled to the benefit;

''(iii) the extent to which survivors are entitled to similar benefits under the program; and

''(iv) the costs of providing such benefits under the program;

''(B) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

''(C) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, members of the Armed Forces retired under any provision of law other than chapter 61 of title 10, United States Code, and members of the Armed Forces retired under chapter 61 of title 10, United States Code (relating to retirement or separation for physical disability)).

''(2) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

''(3) A comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

''(A) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

''(B) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

''(i) revising the term of payment of any such benefits;

''(ii) replacing the periodic payment of such benefits with a lump sum payment;

''(iii) providing such benefits through insurance or other premium-based payment mechanisms; or

''(iv) carrying out any other revision or modification proposed before the date of the enactment of this Act [Oct. 29, 1992] by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

''(C) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

''(D) the feasibility and desirability of modifying the provision of benefits to children survivors; and

''(E) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

''(4) The recommendations of the Comptroller General (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

''(c) SUBMISSION OF REPORT.—The Comptroller General shall submit the report not later than April 1, 1994.

''(d) DEFINITIONS.—In this section:

''(1) The term 'survivor', in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

''(2) The term 'survivor benefit' means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

''(A) Laws administered by the Secretary of Veterans Affairs.

''(B) Laws administered by the Secretary of Defense.

''(C) The Social Security Act (42 U.S.C. 301 et seq.).

''(3) The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.''

DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Section 204 of Pub. L. 94–433 directed Administrator of Veterans' Affairs to study dependency and indemnity compensation program authorized by this chapter in order to evaluate benefits provided by program and to determine whether, or to what extent, benefits should be based on military pay grade of person upon whose death entitlement is predicated, and directed Administrator to submit to Congress and President not later than Oct. 1, 1977, a report containing results of study together with Administrator's recommendations for improvement of program.

STUDY BY ADMINISTRATOR OF DEPENDENCY AND INDEMNITY COMPENSATION CLAIMS

Pub. L. 94–71, § 204, Aug. 5, 1975, 89 Stat. 397, directed Administrator of Veterans' Affairs to make a study of claims for dependency and indemnity compensation relating to veterans who at time of death during period Sept. 1, 1975 to Mar. 1, 1976, were receiving disability compensation based upon a total and permanent disability and required report to be submitted to Speaker of House and President of Senate no later than Oct. 1, 1976.

Pub. L. 93–295, title II, § 207, May 31, 1974, 88 Stat. 183, directed Administrator to make a study of claims for dependency and indemnity compensation relating to veterans who, at time of death within six months of May 31, 1974, were receiving disability compensation, and to report to Speaker of House and President of Senate no more than 30 days after beginning of 94th Congress.

§ 1311. Dependency and indemnity compensation to a surviving spouse

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of $967.

(2) The rate under paragraph (1) shall be increased by $208 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

Pay grade	Monthly rate
E–1	$967
E–2	$967
E–3	$967
E–4	$967
E–5	$967
E–6	$967
E–7	$1,000
E–8	$1,056
E–9	$1,102 [1]
W–1	$1,022
W–2	$1,063
W–3	$1,094
W–4	$1,157
O–1	$1,022
O–2	$1,056
O–3	$1,130
O–4	$1,195
O–5	$1,316
O–6	$1,483
O–7	$1,602
O–8	$1,758
O–9	$1,881
O–10	$2,063 [2]

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,189.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,213.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $241 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $241 if the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $115 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of ''permanently housebound'' will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

(e)[1] In the case of an individual who is eligible for dependency and indemnity compensation under this section by reason of section 103(d)(2)(B) of this title who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, notwithstanding any other provision of law (other than section 5304(b)(3) of this title), no reduction in benefits under such other provision of law shall be made by reason of such individual's eligibility for benefits under this section.

(e)[1](1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of 18, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $250, regardless of the number of such children.

(2) Dependency and indemnity compensation shall be increased under this subsection only for months occurring during the two-year period beginning on the date on which entitlement to dependency and indemnity compensation commenced.

(3) The increase in dependency and indemnity compensation of a surviving spouse under this subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of 18.

(4) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable under this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 411; Pub. L. 87–268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88–21, § 1, May 15, 1963, 77 Stat. 17; Pub. L. 88–134, § 1, Oct. 5, 1963, 77 Stat. 223; Pub. L. 91–24, § 4(b), June 11, 1969, 83 Stat. 33; Pub. L. 91–96, § 3, Oct. 27, 1969, 83 Stat. 144; Pub. L. 91–588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92–197, § 1, Dec. 15, 1971, 85 Stat. 660; Pub. L. 92–455, § 4, Oct. 2, 1972, 86 Stat. 761; Pub. L. 93–295, title II, § 201, May 31, 1974, 88 Stat. 182; Pub. L. 94–71, title II, § 201, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94–433, title II, § 201, Sept. 30, 1976, 90 Stat. 1375; Pub. L. 95–117, title II, § 201, Oct. 3, 1977, 91 Stat. 1064; Pub. L. 95–479, title II, § 201, Oct. 18, 1978, 92 Stat. 1562; Pub. L. 96–128, title II, § 201, Nov. 28, 1979, 93 Stat. 984; Pub. L. 96–385, title II, § 201, Oct. 7, 1980, 94 Stat. 1529; Pub. L. 97–66, title II, § 201, Oct. 17, 1981, 95 Stat. 1028; Pub. L. 97–253, title IV, § 405(e), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§ 104, 107, Oct. 14, 1982, 96 Stat. 1430, 1431; Pub. L. 98–223, title I, § 104, Mar. 2, 1984, 98 Stat. 38; Pub. L. 98–543, title I, § 104, Oct. 24, 1984, 98 Stat. 2736; Pub. L. 99–238, title I, § 104, Jan. 13, 1986, 99 Stat. 1766; Pub. L. 99–576, title I, § 104, Oct. 28, 1986, 100 Stat. 3251; Pub. L. 100–180, div. A, title XIII, § 1314(d)[(1)], Dec. 4, 1987, 101 Stat. 1176; Pub. L. 100–227, title I, § 104, Dec. 31, 1987, 101 Stat. 1554; Pub. L. 100–687, div. B, title XI, § 1104, Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, § 104, Dec. 18, 1989, 103 Stat. 2063; Pub. L. 102–3, § 5, Feb. 6, 1991, 105 Stat. 9; renumbered § 1311 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 5, Nov. 12, 1991, 105 Stat. 986; Pub. L. 102–568, title I, § 102(a), (b), Oct. 29, 1992, 106 Stat. 4321, 4322; Pub. L. 103–78, § 4, Aug. 13, 1993, 107 Stat. 768; Pub. L. 103–140, § 5, Nov. 11, 1993, 107 Stat. 1486; Pub. L. 105–98, § 5, Nov. 19, 1997, 111 Stat. 2156; Pub. L. 105–178, title VIII, § 8207(a), June 9, 1998, 112 Stat. 495; Pub. L. 106–117, title V, § 502(b), Nov. 30, 1999, 113 Stat. 1574; Pub. L. 106–118, § 5, Nov. 30, 1999, 113 Stat. 1602; Pub. L. 107–94, § 5, Dec. 21, 2001, 115 Stat. 901; Pub. L. 107–330, title III, § 309(d), Dec. 6, 2002, 116 Stat. 2830; Pub. L. 108–183, title I, § 101(b), Dec. 16, 2003, 117 Stat. 2652; Pub. L. 108–454, title III, §§ 301(a), 307(d), Dec. 10, 2004, 118 Stat. 3610, 3613.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–454, § 307(d)(1)(A), substituted ''$967'' for ''$948''.

Subsec. (a)(2). Pub. L. 108–454, § 307(d)(1)(B), substituted ''$208'' for ''$204''.

Subsec. (a)(3). Pub. L. 108–454, § 307(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted ''$1,189'' for ''$1,165'', and, in footnote 2, substituted ''$2,213'' for ''$2,168''.

Subsec. (b). Pub. L. 108–454, § 307(d)(3), substituted ''$241'' for ''$237''.

Subsec. (c). Pub. L. 108–454, § 307(d)(4), substituted ''$241'' for ''$237''.

Subsec. (d). Pub. L. 108–454, § 307(d)(5), substituted ''$115'' for ''$113''.

Subsec. (e). Pub. L. 108–454, § 301(a), added subsec. (e) relating to increased dependency and indemnity compensation.

2003—Subsec. (e). Pub. L. 108–183 added subsec. (e).

2002—Subsec. (a)(1). Pub. L. 107–330, § 309(d)(1)(A), substituted ''$948'' for ''$935''.

Subsec. (a)(2). Pub. L. 107–330, § 309(d)(1)(B), substituted ''$204'' for ''$202''.

Subsec. (a)(3). Pub. L. 107–330, § 309(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted ''sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard'' for ''Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty

[1] So in original. Two subsecs. (e) have been enacted.

Officer of the Coast Guard'' and ''$1,165'' for ''$1,149'', and, in footnote 2, substituted ''$2,168'' for ''$2,139''.

Subsec. (b). Pub. L. 107–330, § 309(d)(3), substituted ''$237'' for ''$234''.

Subsec. (c). Pub. L. 107–330, § 309(d)(4), substituted ''$237'' for ''$234''.

Subsec. (d). Pub. L. 107–330, § 309(d)(5), substituted ''$113'' for ''$112''.

2001—Subsec. (a)(1). Pub. L. 107–94, § 5(a)(1), substituted ''$935'' for ''$881''.

Subsec. (a)(2). Pub. L. 107–94, § 5(a)(2), substituted ''$202'' for ''$191''.

Subsec. (a)(3). Pub. L. 107–94, § 5(b), generally upgraded monthly rates for all pay grades, in footnote 1, substituted ''Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer'' for ''sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer'' and ''$1,149'' for ''$1,082'', and, in footnote 2, substituted ''$2,139'' for ''$2,013''.

Subsec. (b). Pub. L. 107–94, § 5(c), substituted ''$234'' for ''$222''.

Subsec. (c). Pub. L. 107–94, § 5(d), substituted ''$234'' for ''$222''.

Subsec. (d). Pub. L. 107–94, § 5(e), substituted ''$112'' for ''$107''.

1999—Subsec. (a)(1). Pub. L. 106–118, § 5(a)(1), substituted ''$881'' for ''$850''.

Subsec. (a)(2). Pub. L. 106–118, § 5(a)(2), substituted ''$191'' for ''$185''.

Subsec. (a)(3). Pub. L. 106–118, § 5(b), generally upgraded monthly rates for all pay grades, substituted ''section 1302 of this title'' for ''section 402 of this title'' and ''$1,082'' for ''$1,044'' in footnote 1, and substituted ''section 1302 of this title'' for ''section 402 of this title'' and ''$2,013'' for ''$1,941'' in footnote 2.

Subsecs. (b), (c). Pub. L. 106–118, § 5(c), (d), substituted ''$222'' for ''$215''.

Subsec. (d). Pub. L. 106–118, § 5(e), substituted ''$107'' for ''$104''.

Pub. L. 106–117 struck out subsec. (e) which provided that the termination by death, divorce, or annulment of the remarriage of the surviving spouse of a veteran or cessation of a surviving spouse living with another person would not bar the furnishing of dependency or indemnity compensation in the absence of fraud.

1998—Subsec. (e). Pub. L. 105–178 added subsec. (e).

1997—Subsec. (a)(1). Pub. L. 105–98, § 5(a)(1), substituted ''$850'' for ''$769''.

Subsec. (a)(2). Pub. L. 105–98, § 5(a)(2), substituted ''$185'' for ''$169''.

Subsec. (a)(3). Pub. L. 105–98, § 5(b), inserted table entries for pay grades E–1 to E–6, generally upgraded monthly rates in table for pay grades E–7 to E–9, W–1 to W–4, and O–1 to O–10, substituted ''section 402 of this title'' for ''section 1302 of this title'' and ''$1,044'' for ''$943'' in footnote 1, and substituted ''section 402 of this title'' for ''section 1302 of this title'' and ''$1,941'' for ''$1,753'' in footnote 2.

Subsec. (b). Pub. L. 105–98, § 5(c), substituted ''$215 for each such child.'' for ''$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter.''

Subsec. (c). Pub. L. 105–98, § 5(d), substituted ''$215'' for ''$195''.

Subsec. (d). Pub. L. 105–98, § 5(e), substituted ''$104'' for ''$95''.

1993—Subsec. (a)(1). Pub. L. 103–140, § 5(1), substituted ''$769'' for ''$750''.

Subsec. (a)(2). Pub. L. 103–140, § 5(2), substituted ''$169'' for ''$165''.

Subsec. (a)(3). Pub. L. 103–140, § 5(3), generally upgraded monthly rates in table for pay grades E–7 to E–9, W–1 to W–4, and O–1 to O–10, struck out table entries for pay grades E–1 to E–6, and substituted ''$943'' for ''$934'' in footnote 1 and ''section 1302'' for ''section 402'' and ''$1,753'' for ''$1,744'' in footnote 2.

Pub. L. 103–78, § 4(1), generally upgraded monthly rates for all pay grades in table.

Subsec. (c). Pub. L. 103–140, § 5(4), substituted ''$195'' for ''$191''.

Pub. L. 103–78, § 4(2), substituted ''$191'' for ''$185''.

Subsec. (d). Pub. L. 103–140, § 5(5), substituted ''$95'' for ''$93''.

Pub. L. 103–78, § 4(3), substituted ''$93'' for ''$90''.

1992—Subsec. (a). Pub. L. 102–568, § 102(a), added pars. (1) to (3) before table and struck out former provision before table which read as follows: ''Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:''.

Subsec. (b). Pub. L. 102–568, § 102(b), substituted ''$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter'' for ''$71 for each such child''.

1991—Pub. L. 102–83, § 5(a), renumbered section 411 of this title as this section.

Subsec. (a). Pub. L. 102–152, § 5(1), generally upgraded monthly rates for all pay grades.

Pub. L. 102–83, § 5(c)(1), substituted ''1302'' for ''402'' in footnotes 1 and 2.

Pub. L. 102–3, § 5(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 102–152, § 5(2), substituted ''$71'' for ''$68''.

Pub. L. 102–3, § 5(2), substituted ''$68'' for ''$65''.

Subsec. (c). Pub. L. 102–152, § 5(3), substituted ''$185'' for ''$178''.

Pub. L. 102–3, § 5(3), substituted ''$178'' for ''$169''.

Subsec. (d). Pub. L. 102–152, § 5(4), substituted ''$90'' for ''$87''.

Pub. L. 102–3, § 5(4), substituted ''$87'' for ''$83''.

1989—Subsec. (a). Pub. L. 101–237, § 104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 101–237, § 104(2), substituted ''$65'' for ''$62''.

Subsec. (c). Pub. L. 101–237, § 104(3), substituted ''$169'' for ''$161''.

Subsec. (d). Pub. L. 101–237, § 104(4), substituted ''$83'' for ''$79''.

1988—Subsec. (a). Pub. L. 100–687, § 1104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 100–687, § 1104(2), substituted ''$62'' for ''$60''.

Subsec. (c). Pub. L. 100–687, § 1104(3), substituted ''$161'' for ''$155''.

Subsec. (d). Pub. L. 100–687, § 1104(4), substituted ''$79'' for ''$76''.

1987—Subsec. (a). Pub. L. 100–227, § 104(1), generally upgraded monthly rates for all pay grades.

Pub. L. 100–180 inserted ''or Vice Chairman'' in footnote 2 after table.

Subsec. (b). Pub. L. 100–227, § 104(2), substituted ''$60'' for ''$58''.

Subsec. (c). Pub. L. 100–227, § 104(3), substituted ''$155'' for ''$149''.

Subsec. (d). Pub. L. 100–227, § 104(4), substituted ''$76'' for ''$73''.

1986—Subsec. (a). Pub. L. 99–576, § 104(1), generally upgraded monthly rates for all pay grades.

Pub. L. 99–238, § 104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 99–576, § 104(2), substituted ''$58'' for ''$57''.

Pub. L. 99–238, § 104(2), substituted ''$57'' for ''$55''.

Subsec. (c). Pub. L. 99–576, § 104(3), substituted ''$149'' for ''$147''.

Pub. L. 99–238, § 104(3), substituted ''$147'' for ''$143''.

Subsec. (d). Pub. L. 99–576, § 104(4), substituted ''$73'' for ''$72''.

Pub. L. 99–238, § 104(4), substituted ''$72'' for ''$70''.

1984—Subsec. (a). Pub. L. 98–543, § 104(a), generally upgraded monthly rates for all pay grades.

Pub. L. 98–223, § 104(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 98–543, § 104(b), substituted ''$55'' for ''$53''.

Pub. L. 98–223, § 104(b), substituted ''$53'' for ''$51''.

Subsec. (c). Pub. L. 98–543, § 104(c), substituted ''$143'' for ''$139''.

Pub. L. 98–223, § 104(c), substituted ''$139'' for ''$134''.

Subsec. (d). Pub. L. 98–543, § 104(d), substituted ''$70'' for ''$68''.

Pub. L. 98–223, § 104(d), substituted ''$68'' for ''$66''.

1982—Subsec. (a). Pub. L. 97–306, §§ 104(a), 107, 108, generally upgraded monthly rates for all pay grades, and repealed amendments made by Pub. L. 97–253, § 405(e)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(1), (h), eff. Jan. 1, 1983, lowered monthly rates for all grades and for positions mentioned in footnotes by $1, except for grades E–3 through E–7.

Subsec. (b). Pub. L. 97–306, §§ 104(b), 107, 108, substituted ''$51'' for ''$48'', and repealed amendment made by Pub. L. 97–253, § 405(e)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(2), (h), eff. Jan. 1, 1983, substituted ''$47'' for ''$48'' after ''shall be increased by''.

Subsec. (c). Pub. L. 97–306, §§ 104(c), 107, 108, substituted ''$134'' for ''$125'', and repealed amendment made by Pub. L. 97–253, § 405(e)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(3), (h), eff. Jan. 1, 1983, substituted ''$124'' for ''$125''.

Subsec. (d). Pub. L. 97–306, §§ 104(d), 107, 108, substituted ''$66'' for ''$62'', and repealed amendment made by Pub. L. 97–253, § 405(e)(4), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(4), (h), eff. Jan. 1, 1983, substituted ''$61'' for ''$62'' after ''shall be increased by''.

1981—Subsec. (a). Pub. L. 97–66, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 97–66, § 201(b), increased from $43 to $48 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 97–66, § 201(c), increased monthly rate of compensation from $112 to $125.

Subsec. (d). Pub. L. 97–66, § 201(d), increased monthly rate of compensation from $56 to $62.

1980—Subsec. (a). Pub. L. 96–385, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 96–385, § 201(b), increased from $38 to $43 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 96–385, § 201(c), increased monthly rate of compensation from $98 to $112.

Subsec. (d). Pub. L. 96–385, § 201(d), increased monthly rate of compensation from $49 to $56.

1979—Subsec. (a). Pub. L. 96–128, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 96–128, § 201(b), increased from $35 to $38 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 96–128, § 201(c), increased monthly rate of compensation from $89 to $98.

Subsec. (d). Pub. L. 96–128, § 201(d), increased monthly rate from $45 to $49.

1978—Subsec. (a). Pub. L. 95–479, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 95–479, § 201(b), increased from $33 to $35 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 95–479, § 201(c), increased monthly rate of compensation from $83 to $89.

Subsec. (d). Pub. L. 95–479, § 201(d), added subsec. (d).

1977—Subsec. (a). Pub. L. 95–117 generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 95–117 increased from $31 to $33 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 95–117 increased monthly rate of compensation payable to a surviving spouse from $78 to $83.

1976—Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' in section catchline.

Subsec. (a). Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' and ''pay grade of the person upon whose death entitlement is predicated'' for ''pay grade of her deceased husband'' in text and ''surviving spouse's rate'' for ''widow's rate'' in footnotes 1 and 2 and generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' in two places and increased from $29 to $31 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 94–433 substituted ''surviving spouse'' and ''spouse'' for ''widow'' and ''she'' and increased monthly rate of compensation payable from $72 to $78.

1975—Subsec. (a). Pub. L. 94–71 generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 94–71 increased from $26 to $29 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 94–71 increased monthly rate of compensation payable to a widow from $64 to $72.

1974—Subsec. (a). Pub. L. 93–295 generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 93–295 increased from $22 to $26 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 93–295 increased monthly rate of compensation payable to the widow from $55 to $64.

1972—Subsec. (a). Pub. L. 92–455 substituted in footnote 1 of table ''chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard,'' for ''chief master sergeant of the Air Force, or sergeant major of the Marine Corps,''.

1971—Subsec. (a). Pub. L. 92–197 generally upgraded monthly rate for all pay grades.

Subsec. (b). Pub. L. 92–197 increased dependency and indemnity compensation rate by $22 per month for each child from $20.

Subsec. (c). Pub. L. 92–197 reenacted subsec. (c) without change.

1970—Subsec. (c). Pub. L. 91–588 substituted ''$55'' for ''$50''.

1969—Subsec. (a). Pub. L. 91–96 substituted provisions setting forth dependency and indemnity compensation table based on the pay grade of the deceased husband for provisions that dependency and indemnity compensation was to be paid at a monthly rate equal to $120 plus 12 per centum of basic pay of the deceased husband.

Subsec. (b). Pub. L. 91–96 substituted provisions which increased dependency and indemnity compensation rate by $20 per month for each child below the age of eighteen of a deceased veteran for provisions which increased dependency and indemnity compensation rate by $28 per month for each child of a deceased veteran in excess of one where there was a widow and two or more children below the age of eighteen and the total of monthly benefits they were receiving was less than a determined amount.

Subsec. (c). Pub. L. 91–96 substituted provisions increasing dependency and indemnity compensation rate by $50 per month for widows that are patients in nursing homes, or are helpless or blind for provisions authorizing Administrator to increase to next highest dollar any fraction of a dollar payable under former subsecs. (a) and (b).

Subsecs. (d) to (f). Pub. L. 91–96 struck out subsecs. (d) to (f) which provided for determination of amount of additional compensation payable to a widow under former provisions of subsec. (b).

Subsec. (d)(3). Pub. L. 91–24 substituted ''section 228c–1(h)'' for ''section 228c–1(i)''.

1963—Subsec. (a). Pub. L. 88–134 increased from $112 to $120 the monthly rate of widow's dependency and indemnity compensation.

Subsec. (b). Pub. L. 88–21 substituted ''$28'' for ''$25''.

1961—Subsec. (d)(1). Pub. L. 87–268 substituted ''section 412(a)'' for ''section 412''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title III, § 301(b), Dec. 10, 2004, 118 Stat. 3610, provided that: ''Subsection (e) of section 1311 of title 38, United States Code, as added by subsection

(a), shall take effect with respect to payments for the first month beginning after the date of the enactment of this Act [Dec. 10, 2004].''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 effective Jan. 1, 2004, see section 101(c) of Pub. L. 108–183, set out as a note under section 103 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

Amendment by Pub. L. 106–117 effective on first day of first month beginning after Nov. 1999, see section 502(c) of Pub. L. 106–117, set out as a note under section 103 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title VIII, § 8207(b), June 9, 1998, 112 Stat. 495, provided that: ''No payment may be made by reason of section 1311(e) of title 38, United States Code, as added by subsection (a) [amending this section], for any month before October 1998.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 102(c) of Pub. L. 102–568 provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 1101 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 10 of Pub. L. 92–197 provided that: ''This Act [amending this section and sections 321, 322, 341, 413 to 415, 417 and 724 [now 1121, 1122, 1141, 1313 to 1315, 1317, and 1924] of this title and enacting provisions set out as note under section 1317 of this title] shall take effect on January 1, 1972.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

EFFECTIVE DATE OF 1963 AMENDMENTS

Section 2 of Pub. L. 88–134 provided that: ''The amendment made by this Act [amending this section]

shall take effect on the effective date of the Uniformed Services Pay Act of 1963 [effective Oct. 1, 1963; see Short Title note set out under section 201 of Title 37, Pay and Allowances of the Uniformed Services] or on January 1, 1964, whichever first occurs.''

Section 5 of Pub. L. 88–21 provided that: ''The amendments made by this Act [amending this section and sections 413 to 415 [now 1313 to 1315] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [May 15, 1963].''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

REPEAL

Section 405(e) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

SAVINGS PROVISION

Section 13(a) of Pub. L. 88–132, Oct. 2, 1963, 77 Stat. 218, provided that: ''The enactment of this Act [see Short Title note under section 201 of Title 37, Pay and Allowances of the Uniformed Services] does not reduce the rate of dependency and indemnity compensation under section 411 [now 1311] of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Oct. 1, 1963] or which thereafter becomes payable for that day by reason of a subsequent determination.''

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.

RETROACTIVE BENEFITS PROHIBITED

For provisions relating to prohibition of retroactive benefits by reason of amendments to this section by Pub. L. 108–183, see section 101(d) of Pub. L. 108–183, set out as a note under section 103 of this title.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

PAYMENT FOR IMPLEMENTATION OF REVISIONS

Section 102(d) of Pub. L. 102–568 provided that: ''The costs of implementing, during fiscal years 1993 and 1994, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code, that result from the amendments made by subsections (a) and (b) [amending this section] shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.''

§ 1312. Benefits in certain cases of in-service or service-connected deaths

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 214 of the Social Security Act (42 U.S.C. 414)) at the time of such veteran's death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 202 of the Social Security Act (42 U.S.C. 402) on the basis of such veteran's wages and self-employment income but who would, upon application therefor, be entitled to such benefits if such veteran had been fully and currently insured at the time of such veteran's death;

the Secretary shall pay for such month benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under title II of the Social Security Act (42 U.S.C. 401 et seq.), if such veteran had been both fully and currently insured at the time of such veteran's death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Secretary.

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter to a surviving spouse who has children is less than the amount of pension which would be payable to (1) such surviving spouse, or (2) such children if the surviving spouse were not entitled, under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Secretary shall pay dependency and indemnity compensation to such surviving spouse in an amount equal to such amount of pension.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1128, § 412; Pub. L. 87–268, § 1(a), Sept. 21, 1961, 75 Stat. 566; Pub. L. 89–466, June 22, 1966, 80 Stat. 217; Pub. L. 94–433, title IV, § 405(9), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98–223, title II, § 213(2), Mar. 2, 1984, 98 Stat. 46; Pub. L. 102–54, § 14(b)(3), June 13, 1991, 105 Stat. 283; renumbered § 1312 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 214 and 202 of the Social Security Act are classified to sections 414 and 402 of Title 42, respectively. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 412 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in concluding provisions.

Pub. L. 102–54 substituted ''401'' for ''201'' in concluding provisions.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1984—Subsec. (a). Pub. L. 98–223, § 213(2), substituted ''section 214 of the Social Security Act (42 U.S.C. 414)'' for ''section 414 of title 42'' in par. (1), ''section 202 of the Social Security Act (42 U.S.C. 402)'' for ''section 402

of title 42'' in par. (3), and ''title II of the Social Security Act (42 U.S.C. 201 et seq.)'' for ''subchapter II of chapter 7 of title 42'' in provision following par. (3).

1976—Subsec. (a). Pub. L. 94–433 substituted ''such veteran's'' for ''his'' in cls. (1) and (3) and in text following cl. (3) and ''such veteran'' for ''he'' in cl. (3).

Subsec. (b). Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' wherever appearing.

1966—Pub. L. 89–466 inserted ''to a widow who has children'', ''to (1) such widow, or (2) such children if the widow were not entitled'', and ''such widow''.

1961—Pub. L. 87–268 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3 of Pub. L. 87–268 provided that: ''The amendments made by this Act [amending this section and sections 107, 411 [now 1311], 415 [now 1315], 422 [now 1322], and 503 [now 1503] of this title and enacting provisions set out as notes under this section] shall take effect as of the first day of the first calendar month which begins after the date of its enactment [Sept. 21, 1961].''

FILING OF APPLICATION FOR BENEFITS

Section 2 of Pub. L. 87–268 provided that the increased pension benefits authorized by Pub. L. 87–268 were to be payable from the effective date of Pub. L. 87–268 to anyone receiving dependency and indemnity compensation on such date only if the application for such increased benefits were filed with the Veterans' Administration within one year from such date and evidence of entitlement were of record or received within one year from the date of request therefor.

§ 1313. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, $410;

(2) two children, $590;

(3) three children, $767; and

(4) more than three children, $767, plus $148 for each child in excess of three.

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a course of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1128, § 413; Pub. L. 88–21, § 2, May 15, 1963, 77 Stat. 17; Pub. L. 89–730, § 4, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 91–262, § 2, May 21, 1970, 84 Stat. 256; Pub. L. 92–197, § 2, Dec. 15, 1971, 85 Stat. 660; Pub. L. 93–295, title II, § 202, May 31, 1974, 88 Stat. 182; Pub. L. 94–71, title II, § 202, Aug. 5, 1975, 89 Stat. 397; Pub. L. 94–433, title II, § 202, Sept. 30, 1976, 90 Stat. 1376; Pub. L. 95–117, title II, § 202, Oct. 3, 1977, 91 Stat. 1065; Pub. L. 95–479, title II, § 202, Oct. 18, 1978, 92 Stat. 1563; Pub. L. 96–128, title II, § 202, Nov. 28, 1979, 93 Stat. 985; Pub. L. 96–385, title II, § 202, Oct. 7, 1980, 94 Stat. 1530; Pub. L. 97–66, title II, §§ 202, 204(a), Oct. 17, 1981, 95 Stat. 1029; Pub. L. 97–253, title IV, § 405(f), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§ 105, 107, Oct. 14, 1982, 96 Stat. 1431; Pub. L. 98–223, title I, § 105, Mar. 2, 1984, 98 Stat. 39; Pub. L. 98–543, title I, § 105, Oct. 24, 1984, 98 Stat. 2737; Pub. L. 99–238, title I, § 105, Jan. 13, 1986, 99 Stat. 1767; Pub. L. 99–576, title I, § 105, title VII, § 703(a)(1), Oct. 28, 1986, 100 Stat. 3252, 3302; Pub. L. 100–227, title I, § 105, Dec. 31, 1987, 101 Stat. 1554; Pub. L. 100–687, div. B, title XI, § 1105(a), Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, § 105(a), Dec. 18, 1989, 103 Stat. 2064; Pub. L. 102–3, § 6(a), Feb. 6, 1991, 105 Stat. 9; renumbered § 1313, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 6(a), Nov. 12, 1991, 105 Stat. 987; Pub. L. 103–78, § 5(a), Aug. 13, 1993, 107 Stat. 768; Pub. L. 103–140, § 6(a), Nov. 11, 1993, 107 Stat. 1487; Pub. L. 105–98, § 6(a), Nov. 19, 1997, 111 Stat. 2157; Pub. L. 106–118, § 6(a), Nov. 30, 1999, 113 Stat. 1603; Pub. L. 107–94, § 6(a), Dec. 21, 2001, 115 Stat. 902; Pub. L. 107–330, title III, § 309(e)(1), Dec. 6, 2002, 116 Stat. 2831; Pub. L. 108–454, title III, § 307(e)(1), Dec. 10, 2004, 118 Stat. 3614.)

CODIFICATION

Amendments by section 105 of Pub. L. 99–576, section 105 of Pub. L. 99–238, and section 105 of Pub. L. 98–223, which directed that cls. (1) to (4) of this section be amended, were executed by amending subsec. (a) of this section, as the probable intent of Congress, in view of subsec. (a) containing cls. (1) to (4).

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–454, § 307(e)(1)(A), substituted ''$410'' for ''$402''.

Subsec. (a)(2). Pub. L. 108–454, § 307(e)(1)(B), substituted ''$590'' for ''$578''.

Subsec. (a)(3). Pub. L. 108–454, § 307(e)(1)(C), substituted ''$767'' for ''$752''.

Subsec. (a)(4). Pub. L. 108–454, § 307(e)(1)(D), substituted ''$767'' and ''$148'' for ''$752'' and ''$145'', respectively.

2002—Subsec. (a)(1). Pub. L. 107–330, § 309(e)(1)(A), substituted ''$402'' for ''$397''.

Subsec. (a)(2). Pub. L. 107–330, § 309(e)(1)(B), substituted ''$578'' for ''$571''.

Subsec. (a)(3). Pub. L. 107–330, § 309(e)(1)(C), substituted ''$752'' for ''$742''.

Subsec. (a)(4). Pub. L. 107–330, § 309(e)(1)(D), substituted ''$752'' and ''$145'' for ''$742'' and ''$143'', respectively.

2001—Subsec. (a)(1). Pub. L. 107–94, § 6(a)(1), substituted ''$397'' for ''$373''.

Subsec. (a)(2). Pub. L. 107–94, § 6(a)(2), substituted ''$571'' for ''$538''.

Subsec. (a)(3). Pub. L. 107–94, § 6(a)(3), substituted ''$742'' for ''$699''.

Subsec. (a)(4). Pub. L. 107–94, § 6(a)(4), substituted ''$742'' and ''$143'' for ''$699'' and ''$136'', respectively.

1999—Subsec. (a)(1). Pub. L. 106–118, § 6(a)(1), substituted ''$373'' for ''$361''.

Subsec. (a)(2). Pub. L. 106–118, § 6(a)(2), substituted ''$538'' for ''$520''.

Subsec. (a)(3). Pub. L. 106–118, § 6(a)(3), substituted ''$699'' for ''$675''.

Subsec. (a)(4). Pub. L. 106–118, § 6(a)(4), substituted ''$699'' and ''$136'' for ''$675'' and ''$132'', respectively.

1997—Subsec. (a)(1). Pub. L. 105–98, § 6(a)(1), substituted ''$361'' for ''$327''.

Subsec. (a)(2). Pub. L. 105–98, § 6(a)(2), substituted ''$520'' for ''$471''.

Subsec. (a)(3). Pub. L. 105–98, § 6(a)(3), substituted ''$675'' for ''$610''.

Subsec. (a)(4). Pub. L. 105–98, § 6(a)(4), substituted ''$675'' and ''$132'' for ''$610'' and ''$120'', respectively.

1993—Subsec. (a)(1). Pub. L. 103–140, § 6(a)(1), substituted ''$327'' for ''$319''.

Pub. L. 103–78, § 5(a)(1), substituted ''$319'' for ''$310''.

Subsec. (a)(2). Pub. L. 103–140, § 6(a)(2), substituted ''$471'' for ''$460''.

Pub. L. 103–78, § 5(a)(2), substituted ''$460'' for ''$447''.

Subsec. (a)(3). Pub. L. 103–140, § 6(a)(3), substituted ''$610'' for ''$595''.

Pub. L. 103–78, § 5(a)(3), substituted ''$595'' for ''$578''.

Subsec. (a)(4). Pub. L. 103–140, § 6(a)(4), substituted ''$610'' for ''$595'' and ''$120'' for ''$117''.

Pub. L. 103–78, § 5(a)(4), substituted ''$595'' for ''$578'' and ''$117'' for ''$114''.

1991—Pub. L. 102–83 renumbered section 413 of this title as this section.

Subsec. (a)(1). Pub. L. 102–152, § 6(a)(1), substituted ''$310'' for ''$299''.

Pub. L. 102–3, § 6(a)(1), substituted ''$299'' for ''$284''.

Subsec. (a)(2). Pub. L. 102–152, § 6(a)(2), substituted ''$447'' for ''$431''.

Pub. L. 102–3, § 6(a)(2), substituted ''$431'' for ''$409''.

Subsec. (a)(3). Pub. L. 102–152, § 6(a)(3), substituted ''$578'' for ''$557''.

Pub. L. 102–3, § 6(a)(3), substituted ''$557'' for ''$529''.

Subsec. (a)(4). Pub. L. 102–152, § 6(a)(4), substituted ''$578'' for ''$557'' and ''$114'' for ''$110''.

Pub. L. 102–3, § 6(a)(4), substituted ''$557'' for ''$529'' and ''$110'' for ''$105''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 105(a)(1), substituted ''$284'' for ''$271''.

Subsec. (a)(2). Pub. L. 101–237, § 105(a)(2), substituted ''$409'' for ''$391''.

Subsec. (a)(3). Pub. L. 101–237, § 105(a)(3), substituted ''$529'' for ''$505''.

Subsec. (a)(4). Pub. L. 101–237, § 105(a)(4), substituted ''$529'' and ''$105'' for ''$505'' and ''$100'', respectively.

1988—Subsec. (a)(1). Pub. L. 100–687, § 1105(a)(1), substituted ''$271'' for ''$261''.

Subsec. (a)(2). Pub. L. 100–687, § 1105(a)(2), substituted ''$391'' for ''$376''.

Subsec. (a)(3). Pub. L. 100–687, § 1105(a)(3), substituted ''$505'' for ''$486''.

Subsec. (a)(4). Pub. L. 100–687, § 1105(a)(4), substituted ''$505'' and ''$100'' for ''$486'' and ''$97'', respectively.

1987—Subsec. (a)(1). Pub. L. 100–227, § 105(1), substituted ''$261'' for ''$251''.

Subsec. (a)(2). Pub. L. 100–227, § 105(2), substituted ''$376'' for ''$361''.

Subsec. (a)(3). Pub. L. 100–227, § 105(3), substituted ''$486'' for ''$467''.

Subsec. (a)(4). Pub. L. 100–227, § 105(4), substituted ''$486'' and ''$97'' for ''$467'' and ''$94'', respectively.

1986—Subsec. (a). Pub. L. 99–576, § 703(a)(1), amended directory language of Pub. L. 98–543, § 105. See 1984 Amendment notes below.

Subsec. (a)(1). Pub. L. 99–576, § 105(1), substituted ''$251'' for ''$247''.

Pub. L. 99–238, § 105(1), substituted ''$247'' for ''$240''.

Subsec. (a)(2). Pub. L. 99–576, § 105(2), substituted ''$361'' for ''$356''.

Pub. L. 99–238, § 105(2), substituted ''$356'' for ''$345''.

Subsec. (a)(3). Pub. L. 99–576, § 105(3), substituted ''$467'' for ''$460''.

Pub. L. 99–238, § 105(3), substituted ''$460'' for ''$446''.

Subsec. (a)(4). Pub. L. 99–576, § 105(4), substituted ''$467'' and ''$94'' for ''$460'' and ''$93'', respectively.

Pub. L. 99–238, § 105(4), substituted ''$460'' and ''$93'' for ''$446'' and ''$90'', respectively.

1984—Subsec. (a)(1). Pub. L. 98–543, § 105(1), as amended by Pub. L. 99–576, § 703(a), substituted ''$240'' for ''$233''.

Pub. L. 98–223, § 105(1), substituted ''$233'' for ''$225''.

Subsec. (a)(2). Pub. L. 98–543, § 105(2), as amended by Pub. L. 99–576, § 703(a), substituted ''$345'' for ''$334''.

Pub. L. 98–223, § 105(2), substituted ''$334'' for ''$323''.

Subsec. (a)(3). Pub. L. 98–543, § 105(3), as amended by Pub. L. 99–576, § 703(a), substituted ''$446'' for ''$432''.

Pub. L. 98–223, § 105(3), substituted ''$432'' for ''$417''.

Subsec. (a)(4). Pub. L. 98–543, § 105(4), as amended by Pub. L. 99–576, § 703(a), substituted ''$446'' and ''$90'' for ''$432'' and ''$87'', respectively.

Pub. L. 98–223, § 105(4), substituted ''$432'' and ''$87'' for ''$417'' and ''$84'', respectively.

1982—Subsec. (a)(1). Pub. L. 97–306, §§ 105(1), 107, 108, substituted ''$225'' for ''$210'', and repealed amendment made by Pub. L. 97–253, § 405(f)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(1), (h), eff. Jan. 1, 1983, substituted ''$209'' for ''$210''.

Subsec. (a)(2). Pub. L. 97–306, §§ 105(2), 107, 108, substituted ''$323'' for ''$301'', and repealed amendment made by Pub. L. 97–253, § 405(f)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(2), (h), eff. Jan. 1, 1983, substituted ''$300'' for ''$301''.

Subsec. (a)(3). Pub. L. 97–306, §§ 105(3), 107, 108, substituted ''$417'' for ''$389'', and repealed amendment made by Pub. L. 97–253, § 405(f)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(3), (h), eff. Jan. 1, 1983, substituted ''$388'' for ''$389''.

Subsec. (a)(4). Pub. L. 97–306, §§ 105(4), 107, 108, substituted ''$417, plus $84'' for ''$389, plus $79'', and repealed amendments made by Pub. L. 97–253, § 405(f)(4), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(4), (h), eff. Jan. 1, 1983, substituted ''$388, plus $78'' for ''$389, plus $79''.

1981—Pub. L. 97–66, §§ 202, 204(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted ''$210'', ''$301'', ''$389'', and ''$79'' for ''$189'', ''$271'', ''$350'', and ''$71'', respectively, in pars. (1), (2), (3), and (4).

Subsec. (b). Pub. L. 97–66, § 204(a), added subsec. (b).

1980—Pub. L. 96–385 substituted ''$189'', ''$271'', ''$350'', ''$350'' and ''$71'' for ''$165'', ''$237'', ''$306'', ''$306'' and ''$62'', respectively, in pars. (1), (2), (3), and (4).

1979—Pub. L. 96–128 substituted ''$165'', ''$237'', ''$306'', ''$306'' and ''$62'' for ''$150'', ''$216'', ''$278'', ''278'' and ''$56'', in pars. (1), (2), (3), and (4), respectively.

1978—Pub. L. 95–479 substituted ''$150'', ''$216'', ''$278'', ''$278'' and ''$56'' for ''$140'', ''$201'', ''$259'', ''$259'' and ''$52'', in pars. (1), (2), (3), and (4), respectively.

1977—Pub. L. 95–117 substituted ''$140'', ''$201'', ''$259'', ''$259'', and ''$52'' for ''$131'', ''$189'', ''$243'', ''$243'', and ''$49'', in pars. (1), (2), (3), and (4), respectively.

1976—Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' in introductory text and $131, $189, $243, $243, and $49 for $121, $175, $225, $225, and $45 in pars. (1), (2), (3), and (4), respectively.

1975—Pub. L. 94–71 substituted $121, $175, $225, $225 and $45 for $108, $156, $201, $201 and $40 in pars. (1), (2), (3) and (4), respectively.

1974—Pub. L. 93–295 substituted ''$108'', ''$156'', ''$201'', ''$201'', and ''$40'' for ''$92'', ''$133'', ''$172'', ''$172'', and ''$34'', in pars. (1), (2), (3), and (4), respectively.

1971—Pub. L. 92–197 substituted ''$92'', ''$133'', ''$172'', and ''$172'' and ''$34'' for ''$88'', ''$127'', ''$164'' and ''164'' and ''$32'', in pars. (1), (2), (3), and (4). respectively.

1970—Pub. L. 91–262 substituted ''$88'', ''$127'', ''$164'', and ''$164'' and ''$32'', for ''$80'', ''$115'', ''$149'', and ''$149'' and ''$29'', in pars. (1), (2), (3), and (4), respectively.

1966—Pub. L. 89–730 substituted ''$80'', ''$115'', ''$149'', and ''$29'', for ''$77'', ''$110'', ''$143'', and ''$143'' and ''$28'', in pars. (1), (2), (3), and (4), respectively.

1963—Pub. L. 88–21 substituted ''$77'', ''$110'', ''$143'' and ''28'' for ''$70'', ''$100'', ''$130'' and ''$25'', in pars. (1), (2), (3), and (4), respectively.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Section 703(c) of Pub. L. 99–576 provided that: ''The amendments made by this section [amending this section and sections 524 and 525 [now 1524 and 1525] of this title and amending provisions set out as a note under section 1163 of this title] shall take effect as if included in the Veterans' Benefits Improvement Act of 1984 (Public Law 98–543).''

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 4 of Pub. L. 91–262 provided that: ''The amendments made by sections 2 and 3 of this Act [amending this section and section 414 [now 1314] of this title] shall become effective on the first day of the second calendar month following the month in which this Act is enacted [May 1970].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89–730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–21 effective first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88–21, set out as a note under section 1311 of this title.

REPEAL

Section 405(f) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§ 107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

§ 1314. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-

support, the dependency and indemnity compensation paid monthly to such child shall be increased by $241.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $410.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $205.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1128, § 414; Pub. L. 88–21, § 3, May 15, 1963, 77 Stat. 17; Pub. L. 89–311, § 2(c)(2), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 89–730, § 5, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 91–262, § 3, May 21, 1970, 84 Stat. 256; Pub. L. 92–197, § 3, Dec. 15, 1971, 85 Stat. 661; Pub. L. 93–295, title II, § 203, May 31, 1974, 88 Stat. 183; Pub. L. 94–71, title II, § 203, Aug. 5, 1975, 89 Stat. 397; Pub. L. 94–433, title II, § 203, title IV, § 405(10), Sept. 30, 1976, 90 Stat. 1376, 1380; Pub. L. 95–117, title II, § 203, Oct. 3, 1977, 91 Stat. 1065; Pub. L. 95–479, title II, § 203, Oct. 18, 1978, 92 Stat. 1563; Pub. L. 96–128, title II, § 203, Nov. 28, 1979, 93 Stat. 985; Pub. L. 96–385, title II, § 203, Oct. 7, 1980, 94 Stat. 1530; Pub. L. 97–66, title II, § 203, Oct. 17, 1981, 95 Stat. 1029; Pub. L. 97–253, title IV, § 405(g), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§ 106, 107, Oct. 14, 1982, 96 Stat. 1431; Pub. L. 98–223, title I, § 106, Mar. 2, 1984, 98 Stat. 39; Pub. L. 98–543, title I, § 106, Oct. 24, 1984, 98 Stat. 2737; Pub. L. 99–238, title I, § 106, Jan. 13, 1986, 99 Stat. 1767; Pub. L. 99–576, title I, § 106, Oct. 28, 1986, 100 Stat. 3252; Pub. L. 100–227, title I, § 106, Dec. 31, 1987, 101 Stat. 1555; Pub. L. 100–687, div. B, title XI, § 1105(b), Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, § 105(b), Dec. 18, 1989, 103 Stat. 2064; Pub. L. 102–3, § 6(b), Feb. 6, 1991, 105 Stat. 9; renumbered § 1314, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 6(b), Nov. 12, 1991, 105 Stat. 987; Pub. L. 103–78, § 5(b), Aug. 13, 1993, 107 Stat. 769; Pub. L. 103–140, § 6(b), Nov. 11, 1993, 107 Stat. 1487; Pub. L. 105–98, § 6(b), Nov. 19, 1997, 111 Stat. 2157; Pub. L. 106–118, § 6(b), Nov. 30, 1999, 113 Stat. 1603; Pub. L. 107–94, § 6(b), Dec. 21, 2001, 115 Stat. 902; Pub. L. 107–330, title III, § 309(e)(2), Dec. 6, 2002, 116 Stat. 2831; Pub. L. 108–454, title III, § 307(e)(2), Dec. 10, 2004, 118 Stat. 3614.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454, § 307(e)(2)(A), substituted "$241" for "$237".

Subsec. (b). Pub. L. 108–454, § 307(e)(2)(B), substituted "$410" for "$402".

Subsec. (c). Pub. L. 108–454, § 307(e)(2)(C), substituted "$205" for "$201".

2002—Subsec. (a). Pub. L. 107–330, § 309(e)(2)(A), substituted "$237" for "$234".

Subsec. (b). Pub. L. 107–330, § 309(e)(2)(B), substituted "$402" for "$397".

Subsec. (c). Pub. L. 107–330, § 309(e)(2)(C), substituted "$201" for "$199".

2001—Subsec. (a). Pub. L. 107–94, § 6(b)(1), substituted "$234" for "$222".

Subsec. (b). Pub. L. 107–94, § 6(b)(2), substituted "$397" for "$373".

Subsec. (c). Pub. L. 107–94, § 6(b)(3), substituted "$199" for "$188".

1999—Subsec. (a). Pub. L. 106–118, § 6(b)(1), substituted "$222" for "$215".

Subsec. (b). Pub. L. 106–118, § 6(b)(2), substituted "$373" for "$361".

Subsec. (c). Pub. L. 106–118, § 6(b)(3), substituted "$188" for "$182".

1997—Subsec. (a). Pub. L. 105–98, § 6(b)(1), substituted "$215" for "$195".

Subsec. (b). Pub. L. 105–98, § 6(b)(2), substituted "$361" for "$327".

Subsec. (c). Pub. L. 105–98, § 6(b)(3), substituted "$182" for "$166".

1993—Subsec. (a). Pub. L. 103–140, § 6(b)(1), substituted "$195" for "$191".

Pub. L. 103–78, § 5(b)(1), substituted "$191" for "$185".

Subsec. (b). Pub. L. 103–140, § 6(b)(2), substituted "$327" for "$319".

Pub. L. 103–78, § 5(b)(2), substituted "$319" for "$310".

Subsec. (c). Pub. L. 103–140, § 6(b)(3), substituted "$166" for "$162".

Pub. L. 103–78, § 5(b)(3), substituted "$162" for "$157".

1991—Pub. L. 102–83 renumbered section 414 of this title as this section.

Subsec. (a). Pub. L. 102–152, § 6(b)(1), substituted "$185" for "$178".

Pub. L. 102–3, § 6(b)(1), substituted "$178" for "$169".

Subsec. (b). Pub. L. 102–152, § 6(b)(2), substituted "$310" for "$299".

Pub. L. 102–3, § 6(b)(2), substituted "$299" for "$284".

Subsec. (c). Pub. L. 102–152, § 6(b)(3), substituted "$157" for "$151".

Pub. L. 102–3, § 6(b)(3), substituted "$151" for "$144".

1989—Subsec. (a). Pub. L. 101–237, § 105(b)(1), substituted "$169" for "$161".

Subsec. (b). Pub. L. 101–237, § 105(b)(2), substituted "$284" for "$271".

Subsec. (c). Pub. L. 101–237, § 105(b)(3), substituted "$144" for "$138".

1988—Subsec. (a). Pub. L. 100–687, § 1105(b)(1), substituted "$161" for "$155".

Subsec. (b). Pub. L. 100–687, § 1105(b)(2), substituted "$271" for "$261".

Subsec. (c). Pub. L. 100–687, § 1105(b)(3), substituted "$138" for "$133".

1987—Subsec. (a). Pub. L. 100–227, § 106(1), substituted "$155" for "$149".

Subsec. (b). Pub. L. 100–227, § 106(2), substituted "$261" for "$251".

Subsec. (c). Pub. L. 100–227, § 106(3), substituted "$133" for "$128".

1986—Subsec. (a). Pub. L. 99–576, § 106(1), substituted "$149" for "$147".

Pub. L. 99–238, § 106(1), substituted "$147" for "$143".

Subsec. (b). Pub. L. 99–576, § 106(2), substituted "$251" for "$247".

Pub. L. 99–238, § 106(2), substituted "$247" for "$240".

Subsec. (c). Pub. L. 99–576, § 106(3), substituted "$128" for "$126".

Pub. L. 99–238, § 106(3), substituted "$126" for "$122".

1984—Subsec. (a). Pub. L. 98–543, § 106(1), substituted "$143" for "$139".

Pub. L. 98–223, § 106(1), substituted "$139" for "$134".

Subsec. (b). Pub. L. 98–543, § 106(2), substituted "$240" for "$233".

Pub. L. 98–223, § 106(2), substituted "$233" for "$225".

Subsec. (c). Pub. L. 98–543, § 106(3), substituted "$122" for "$118".

Pub. L. 98–223, § 106(3), substituted "$118" for "$114".

1982—Subsec. (a). Pub. L. 97–306, §§106(1), 107, 108, substituted ''$134'' for ''$125'', and repealed amendment made by Pub. L. 97–253, §405(g)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, §405(g)(1), (h), eff. Jan. 1, 1983, substituted ''$124'' for ''$125''.

Subsec. (b). Pub. L. 97–306, §§106(2), 107, 108, substituted ''$225'' for ''$210'', and repealed amendment made by Pub. L. 97–253, §405(g)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, §405(g)(2), (h), eff. Jan. 1, 1983, substituted ''$209'' for ''$210''.

Subsec. (c). Pub. L. 97–306, §§106(3), 107, 108, substituted ''$114'' for ''$107'', and repealed amendment made by Pub. L. 97–253, §405(g)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, §405(g)(3), (h), eff. Jan. 1, 1983, substituted ''$106'' for ''$107''.

1981—Subsec. (a). Pub. L. 97–66, §203(1), substituted ''$125'' for ''$112''.

Subsec. (b). Pub. L. 97–66, §203(2), substituted ''$210'' for ''$189''.

Subsec. (c). Pub. L. 97–66, §203(3), substituted ''$107'' for ''$96''.

1980—Subsec. (a). Pub. L. 96–385, §203(1), substituted ''$112'' for ''$98''.

Subsec. (b). Pub. L. 96–385, §203(2), substituted ''$189'' for ''$165''.

Subsec. (c). Pub. L. 96–385, §203(3), substituted ''$96'' for ''$84''.

1979—Subsec. (a). Pub. L. 96–128, §203(1), substituted ''$98'' for ''$89''.

Subsec. (b). Pub. L. 96–128, §203(2), substituted ''$165'' for ''$150''.

Subsec. (c). Pub. L. 96–128, §203(3), substituted ''$84'' for ''$76''.

1978—Subsec. (a). Pub. L. 95–479, §203(1), substituted ''$89'' for ''$83''.

Subsec. (b). Pub. L. 95–479, §203(2), substituted ''$150'' for ''$140''.

Subsec. (c). Pub. L. 95–479, §203(3), substituted ''$76'' for ''$71''.

1977—Subsec. (a). Pub. L. 95–117, §203(1), substituted ''$83'' for ''$78''.

Subsec. (b). Pub. L. 95–117, §203(2) substituted ''$140'' for ''$131''.

Subsec. (c). Pub. L. 95–117, §203(3), substituted ''$71'' for ''$67''.

1976—Subsec. (a). Pub. L. 94–433, §§203(1), 405(10), substituted ''$78'' for ''$72'' and ''such child'' for ''him''.

Subsec. (b). Pub. L. 94–433, §§203(2), 405(10), substituted ''$131'' for ''$121'' and ''person'' for ''woman'', ''surviving spouse'' for ''widow'' and ''such person's deceased spouse'' for ''her deceased husband'' wherever appearing.

Subsec. (c). Pub. L. 94–433, §§203(3), 405(10), substituted ''$67'' for ''$62'' and ''person'' for ''woman'', ''surviving spouse'' for ''widow'' and ''such person's deceased spouse'' for ''her deceased husband'' wherever appearing.

1975—Subsec. (a). Pub. L. 94–71, §203(a), substituted ''$72'' for ''$64''.

Subsec. (b). Pub. L. 94–71, §203(b), substituted ''$121'' for ''$108''.

Subsec. (c). Pub. L. 94–71, §203(c), substituted ''$62'' for ''$55''.

1974—Subsec. (a). Pub. L. 93–295, §203(a), substituted ''$64'' for ''55''.

Subsec. (b). Pub. L. 93–295, §203(b), substituted ''$108'' for ''$92''.

Subsec. (c). Pub. L. 93–295, 203(c), substituted ''$55'' for ''$47''.

1971—Subsec. (a). Pub. L. 92–197, §3(a), substituted ''$55'' for ''$32''.

Subsec. (b). Pub. L. 92–197, §3(b), substituted ''$92'' for ''$88''.

Subsec. (c). Pub. L. 92–197, §3(c), substituted ''$47'' for ''$45''.

1970—Subsec. (a). Pub. L. 91–262, §3(a), substituted ''$32'' for ''$29''.

Subsec. (b). Pub. L. 91–262, §3(b), substituted ''$88'' for ''$80''.

Subsec. (c). Pub. L. 91–262, §3(c), substituted ''$45'' for ''$41''.

1966—Subsec. (a). Pub. L. 89–730, §5(1), substituted ''$29'' for ''$28''.

Subsec. (b). Pub. L. 89–730, §5(2), substituted ''$80'' for ''$77''.

Subsec. (c). Pub. L. 89–730, §5(3), substituted ''41'' for ''39''.

1965—Subsec. (c). Pub. L. 89–311 substituted ''twenty-three'' for ''twenty-one''.

1963—Subsec. (a). Pub. L. 88–21, §3(1), substituted ''$28'' for ''$25''.

Subsec. (b). Pub. L. 88–21, §3(2), substituted ''$77'' for ''$70''.

Subsec. (c). Pub. L. 88–21, §3(3), substituted ''$39'' for ''$35''.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–262 effective first day of second calendar month following May 1970, see section 4 of Pub. L. 91–262, set out as a note under section 1313 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89–730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–21 effective first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88–21, set out as a note under section 1311 of this title.

REPEAL

Section 405(g) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§ 107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

§ 1315. Dependency and indemnity compensation to parents

(a)(1) Except as provided in paragraph (2), dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

(2) Under regulations prescribed by the Secretary, benefits under this section may be paid less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum annual rate payable under this section.

(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, the monthly rate of dependency and indemnity compensation paid to such parent shall be $163, as increased from time to time under section 5312(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Secretary shall prescribe under section 5312(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $4,038, as increased from time to time under section 5312 of this title.

(4) If there is only one parent and such parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to such parent under either paragraph (1) of this subsection or under subsection (d) of this section, whichever will result in the greater amount of such compensation being paid to such parent. In such a case of remarriage the total combined annual income of the parent and such parent's spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.

(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, the monthly rate of dependency and indemnity compensation paid to each such parent shall be $115, as increased from time to time under section 5312(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Secretary shall prescribe under section 5312(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $4,038, as increased from time to time under section 5312 of this title.

(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, the monthly rate of dependency and indemnity compensation paid to such parent shall be $109, as increased from time to time under section 5312(b)(1) of this title and reduced by an amount, based upon the amount of the combined annual income of the parents or the parent and the parent's spouse, determined in accordance with regulations which the Secretary shall prescribe under section 5312(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $5,430, as increased from time to time under section 5312 of this title.

(e) The Secretary may require as a condition of granting or continuing dependency and indemnity compensation to a parent that such parent, other than one who has attained seventy-two years of age and has been paid dependency and indemnity compensation during two consecutive calendar years, file for a calendar year with the Secretary (on the form prescribed by the Secretary) a report showing the total income which such parent expects to receive in that year and the total income which such parent received in the preceding year. The parent or parents shall notify the Secretary whenever there is a material change in annual income.

(f)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

(A) payments of the six-months' death gratuity;

(B) donations from public or private relief or welfare organizations;

(C) payments under this chapter (except section 1312(a)) and chapters 11 and 15 of this title and under the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

(D) lump-sum death payments under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(E) payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces;

(F) payments under policies of servicemembers' group life insurance, United States Government life insurance or national service life insurance, and payments of servicemen's indemnity;

(G) 10 percent of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;

(H) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) a deceased spouse's just debts,

(ii) the expenses of the spouse's last illness to the extent such expenses are not reimbursed under chapter 51 of this title, and

(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 or chapter 51 of this title;

(I) reimbursements of any kind for any casualty loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or the reasonable replacement value of the property involved at the time immediately preceding the loss;

(J) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) the expenses of the veteran's last illness, and

(ii) the expenses of such veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

(K) profit realized from the disposition of real or personal property other than in the course of a business;

(L) payments received for discharge of jury duty or obligatory civic duties;

(M) payments of annuities elected under subchapter I of chapter 73 of title 10.

(2) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(3) The Secretary may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.

(g) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $85, as increased from time to time under section 5312 of this title, if such parent is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1129, § 415; Pub. L. 87–268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88–21, § 4, May 15, 1963, 77 Stat. 17; Pub. L. 89–730, §§ 1, 2, Nov. 2, 1966, 80 Stat. 1157, 1158; Pub. L. 90–275, § 2, Mar. 28, 1968, 82 Stat. 66; Pub. L. 91–588, §§ 2, 8(a), Dec. 24, 1970, 84 Stat. 1582, 1584; Pub. L. 92–197, § 4, Dec. 15, 1971, 85 Stat. 661; Pub. L. 92–425, § 6(1), Sept. 21, 1972, 86 Stat. 713; Pub. L. 93–177, § 4, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93–527, § 7, Dec. 21, 1974, 88 Stat. 1704; Pub. L. 94–169, title II, § 201, Dec. 23, 1975, 89 Stat. 1019; Pub. L. 94–432, title III, § 301, Sept. 30, 1976, 90 Stat. 1371; Pub. L. 95–204, title II, § 201, Dec. 2, 1977, 91 Stat. 1457; Pub. L. 95–588, title II, § 201, Nov. 4, 1978, 92 Stat. 2505; Pub. L. 96–466, title VI, § 605(c)(1), Oct. 17, 1980, 94 Stat. 2211; Pub. L. 97–295, § 4(10), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 100–687, div. B, title XIV, § 1402(a), Nov. 18, 1988, 102 Stat. 4129; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1315 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title I, § 102, Aug. 14, 1991, 105 Stat. 414; Pub. L. 103–271, § 9(a), July 1, 1994, 108 Stat. 743; Pub. L. 104–275, title IV, § 405(c)(1), Oct. 9, 1996, 110 Stat. 3340.)

REFERENCES IN TEXT

Section 9(b) of the Veterans' Pension Act of 1959, referred to in subsec. (f)(1)(C), is section 9(b) of Pub. L. 86–211, Aug. 29, 1959, 73 Stat. 432, which was set out as a Savings Provisions note under section 1521 of this title, and was repealed, effective Jan. 1, 1979, by section

306(b)(1) of Pub. L. 95–588, which is set out as a Savings Provisions for Persons Entitled to Pension as of December 31, 1978: Other Provisions note under section 1521 of this title.

The Social Security Act, referred to in subsec. (f)(1)(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (f)(1)(F). Pub. L. 104–275 substituted ''servicemembers' group'' for ''servicemen's group''.

1994—Subsec. (e). Pub. L. 103–271, in first sentence, substituted ''may require'' for ''shall require'' and ''for a calendar year'' for ''each year'' and, in second sentence, substituted ''notify the Secretary'' for ''file with the Secretary a revised report'' and struck out ''the estimated'' after ''material change in''.

1991—Pub. L. 102–83, § 5(a), renumbered section 415 of this title as this section.

Subsec. (a). Pub. L. 102–86 amended this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by amending subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.''

Subsec. (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312(b)(1)'' for ''3112(b)(1)'' and ''5312(b)(2)'' for ''3112(b)(2)''.

Subsec. (b)(3). Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (c)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312(b)(1)'' for ''3112(b)(1)'' and ''5312(b)(2)'' for ''3112(b)(2)''.

Subsec. (c)(3). Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312(b)(1)'' for ''3112(b)(1)'' and ''5312(b)(2)'' for ''3112(b)(2)''.

Subsec. (d)(3). Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (f)(1)(C). Pub. L. 102–83, § 5(c)(1), substituted ''1312(a)'' for ''412(a)''.

Subsec. (f)(1)(I), (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (g). Pub. L. 102–40 substituted ''5312'' for ''3112''.

1988—Subsec. (f)(1)(I). Pub. L. 100–687 amended cl. (I) generally. Prior to amendment, cl. (I) read as follows: ''proceeds of fire insurance policies;''.

1982—Subsec. (f)(1)(D). Pub. L. 97–295, § 4(10)(A), substituted ''title II of the Social Security Act (42 U.S.C. 401 et seq.)'' for ''subchapter II of chapter 7 of title 42''.

Subsec. (f)(1)(G). Pub. L. 97–295, § 4(10)(B), substituted ''percent'' for ''per centum''.

1980—Subsec. (f). Pub. L. 96–466 redesignated subsec. (g) as (f). Former subsec. (f), which directed the Administrator, upon ascertaining that there had been overpayments to a parent under this section, to deduct such overpayments (unless waived) from any future payments made to such parent under this section, was struck out.

Subsecs. (g), (h). Pub. L. 96–466 redesignated subsecs. (g) and (h) as (f) and (g), respectively.

1978—Subsec. (b)(1). Pub. L. 95–588, § 201(a)(1), substituted a fixed monthly amount of $163, subject to certain increases and deductions, as parental compensation for a formula for computing the monthly award under this subsection based upon the annual income of the recipient.

Subsec. (b)(3). Pub. L. 95–588, § 201(a)(2), substituted ''$4,038, as increased from time to time under section 3112 of this title'' for ''$3,770''.

Subsec. (b)(4). Pub. L. 95–588, § 201(a)(3), struck out references to the award computation formula formerly contained in subsec. (b)(1) of this section and inserted provision relating to election between subsecs. (b)(1) and (d) of this section in order to procure the greatest amount of compensation for the recipient.

Subsec. (c)(1). Pub. L. 95–588, § 201(b)(1), substituted a fixed amount of $115 a month as compensation under this subsection for a computation formula based upon the annual income of the recipient.

Subsec. (c)(3). Pub. L. 95–588, § 201(b)(2), substituted ''$4,038, as increased from time to time under section 3112 of this title'' for ''$3,770''.

Subsec. (d)(1). Pub. L. 95–588, § 201(c)(1), substituted a fixed amount of $109 a month as compensation under this subsection for a computation formula based upon combined annual income of recipients.

Subsec. (d)(3). Pub. L. 95–588, § 201(c)(2), substituted ''$5,430, as increased from time to time under section 3112 of this title'' for ''$5,070''.

Subsec. (h). Pub. L. 95–588, § 201(d), substituted ''$85, as increased from time to time under section 3112 of this title'' for ''$79''.

1977—Subsec. (b)(1). Pub. L. 95–204, § 201(1), increased monthly rate of compensation from $142 to $152, substituted ''.05'' for ''.04'', ''.06'' for ''.05'', ''.08'' for ''.06'', ''1,500'' for ''1,400'' in two places, and ''3,770'' for ''1,600'', and struck out provision reducing compensation by .08 for income more than 1,600 but not more than 3,540.

Subsec. (b)(3). Pub. L. 95–204, § 201(2), substituted ''$3,770'' for ''$3,540''.

Subsec. (c)(1). Pub. L. 95–204, § 201(3), increased monthly rate of compensation from $100 to $107, substituted ''.05'' for ''.04'', ''.06'' for ''.05'', ''2,000'' for ''1,300'' in two places, and ''3,770'' for ''2,300'', and struck out provision reducing compensation by .06 for income more than 2,300 but not more than 3,540.

Subsec. (c)(3). Pub. L. 95–204, § 201(4), substituted ''$3,770'' for ''$3,540''.

Subsec. (d)(1). Pub. L. 95–204, § 201(5), increased monthly rate of compensation from $96 to $102, and substituted ''2,000'' for ''2,100'' in two places, ''2,900'' for ''3,100'' in two places, ''3,600'' for ''3,800'' in two places, and ''5,070'' for ''4,760''.

Subsec. (d)(3). Pub. L. 95–204, § 201(6), substituted ''$5,070'' for ''$4,760''.

Subsec. (h). Pub. L. 95–204, § 201(7), substituted ''$79'' for ''$74''.

1976—Subsec. (b)(1). Pub. L. 94–432, § 301(1), increased monthly rate of compensation from $133 to $142 and substituted $1,200 to $1,400 for $1,200 to $1,500, $1,400 to $1,600 for $1,500 to $1,700 and $1,600 to $3,540 for $1,700 to $3,300.

Subsec. (b)(3). Pub. L. 94–432, § 301(2), substituted ''$3,540'' for ''$3,300''.

Subsec. (c)(1). Pub. L. 94–432, § 301(3), increased monthly rate of compensation from $93 to $100 and substituted $1,100 to $1,300 for $1,100 to $1,600, $1,300 to $2,300 for $1,600 to $2,400 and $2,300 to $3,540 for $2,400 to $3,300.

Subsec. (c)(3). Pub. L. 94–432, § 301(4), substituted ''$3,540'' for ''$3,300''.

Subsec. (d)(1). Pub. L. 94–432, § 301(5), increased monthly compensation from $90 to $96 and substituted $1,000 to $2,100 for $1,000 to $2,300, $2,100 to $3,100 for $2,300 to $3,300 and $3,100 to $3,800 for $3,300 to $4,500, and inserted provision for reduction by $.05 for each $1 of total combined annual income which is more than $3,800 but not more than $4,760.

Subsec. (d)(3). Pub. L. 94–432, § 301(6), substituted ''$4,760'' for ''$4,500''.

Subsec. (h). Pub. L. 94–432, § 301(7), substituted ''$74'' for ''$69''.

1975—Subsec. (b)(1). Pub. L. 94–169, § 201(2), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, monthly rate of compensation from $123 to $133, substituted $1000 to $1200 for $1000 to $1300, $1200 to $1500 for $1300 to $1600, $1500 to $1700 for $1600 to $1800 and $1700 to $3300 for $2000 to $3000, the minimum and maximum income ranges for which the compensation

rate will be reduced by 4, 5, 6 and 8 cents per dollar, respectively, struck out the income range of $1800 to $2000 for which the reduction rate is 7 cents per dollar, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $3,000 to $3300 the income in excess of which no compensation will be paid.

Subsec. (b)(2). Pub. L. 94–169, § 201(1), redesignated, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, subsec. (b)(2) as (b)(4), and in subsec. (b)(4) as so redesignated, substituted ''such parent has remarried'' for ''he has remarried'', ''with such parent's spouse'' for ''with his spouse'', ''paid to such parent'' for ''paid to him'' and ''parent and such parent's spouse'' for ''parent and his spouse''.

Subsec. (c). Pub. L. 94–169, § 201(3), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, monthly rate of compensation from $86 to $93, substituted $1100 to $1600 for $1100 to $2100, $1600 to $2400 for $2100 to $2500 and $2400 to $3300 for $2500 to $3000, the minimum and maximum income ranges for which the compensation rate will be reduced 4, 5 and 6 cents, respectively, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $3000 to $3300 the income in excess of which no compensation will be paid.

Subsec. (d). Pub. L. 94–169, § 201(3), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, basic rate of monthly compensation from $83 to $90, substituted $1000 to $2300 for $1100 to $2500, $2300 to $3300 for $2500 to $3500 and $3300 to $4500 for $3500 to $4200 the minimum and maximum income ranges for which the compensation rate will be reduced by 2, 3, and 4 cents, respectively, struck out the income range of $1000 to $1100 for which the reduction rate is 1 cent per dollar, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $4200 to $4500 the income in excess of which no compensation will be paid.

Subsec. (e). Pub. L. 94–169, § 201(4), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''with the Administrator'' for ''with him'' and ''prescribed by the Administrator'' for ''prescribed by him''.

Subsec. (f). Pub. L. 94–169, § 201(5), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''the Administrator shall deduct'' for ''he shall deduct''.

Subsec. (g)(1)(J)(ii). Pub. L. 94–169, § 201(6), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''such veteran's'' for ''his''.

Subsec. (h). Pub. L. 94–169, § 201(7), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''$69'' for ''$64''.

1974—Subsec. (b)(1). Pub. L. 93–527, § 7(1), substituted ''$123'' for ''$110'', ''$1000'' for ''$1100'' wherever appearing, ''$1300'' for ''$1500'' wherever appearing, ''$1600'' for ''$1700'' wherever appearing, ''$1800'' for ''$2000'' wherever appearing, ''$2000'' for ''$2300'' wherever appearing, and ''$3000'' for ''$2600'' wherever appearing, and provided that in no event shall the monthly rate be less than $4.00.

Subsec. (b)(2). Pub. L. 93–527, § 7(1), reenacted par. (2) without change.

Subsec. (c). Pub. L. 93–527, § 7(2), substituted ''$86'' for ''$77'', ''$2100'' for ''$1400'' wherever appearing, ''$2500'' for ''$2300'' wherever appearing, ''3000'' for ''2600'' wherever appearing, and ''4 cents'', ''5 cents'' and ''6 cents'' for ''3 cents'', ''4 cents'' and ''5 cents'', and inserted provision that in no event shall the monthly rate of dependency and indemnity compensation be less than $4.

Subsec. (d). Pub. L. 93–527, § 7(3), substituted ''$83'' for ''$74'', ''$1,000'' for ''$1,200'' wherever appearing, ''$2500'' for ''$2900'' wherever appearing, and ''3500'' for ''$3800'', and inserted provisions for reduction of 4 cents in the monthly rate for each dollar of annual income in excess of $3500 up to and including $4200, for not less than $4 for the monthly rate of dependency and indemnity compensation, and raised the maximum combined income for which compensation will be paid from $3800 to $4200.

Subsec. (h). Pub. L. 93–527, § 7(4), substituted ''$64'' for ''$55''.

1973—Subsec. (b)(1). Pub. L. 93–177, § 4(a), substituted ''$110'' for ''$100'', ''$1,100'' for ''$1,200'', ''$1,500'' for ''$1,600'', ''$1,700'' for ''$1,900'', ''$2,000'' for ''$2,100'', and ''$2,300'' for ''$2,600'' in existing provisions and inserted provisions for a reduction of 8 cents in the monthly rate for each $1 annual income in excess of $2,300 up to and including $2,600.

Subsec. (b)(2). Pub. L. 93–177, § 4(a), reenacted par. (2) without change.

Subsec. (c). Pub. L. 93–177, § 4(b), substituted ''$77'' for ''$70'', ''$1,400'' for ''$1,700'', and ''$2,300'' for ''$2,600'' in existing provisions and inserted provision for a reduction of 5 cents in the monthly rate for each $1 of annual income in excess of $2,300 up to and including $2,600.

Subsec. (d). Pub. L. 93–177, § 4(c), substituted ''$74'' for ''$67'', ''$1,200'' for ''$1,300'', and ''$2,900'' for ''$3,400''.

1972—Subsec. (g)(1)(M). Pub. L. 92–425 substituted ''subchapter I of chapter 73 of title 10'' for ''chapter 73 of title 10''.

1971—Subsec. (b)(1). Pub. L. 92–197, § 4(a), substituted formula to measure monthly compensation rate of one parent by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $2,600 from $2,300.

Subsec. (b)(2). Pub. L. 92–197, § 4(a), substituted reference to formula in subsecs. (b)(1) and (d), for reference to tables in subsecs. (b)(1) and (d).

Subsec. (c). Pub. L. 92–197, § 4(b), substituted formula to measure dependency and indemnity compensation rates of two parents not living together by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $2,600 from $2,300.

Subsec. (d). Pub. L. 92–197, § 4(c), substituted formula to measure dependency and indemnity compensation to two parents living together or a remarried parent living with his spouse by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $3,800 from $3,500.

Subsec. (g)(2), (3). Pub. L. 92–197, § 4(d), redesignated par. (2) as par. (3) and added par. (2).

Subsec. (h). Pub. L. 92–197, § 4(e), added subsec. (h).

1970—Subsec. (b)(1). Pub. L. 91–588, § 2(a), provided new annual income limits to measure monthly compensation of one parent by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $18, $12, and $10, respectively, and within existing annual income limits from a maximum of $800 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$96'' for ''$87'', ''94'' for ''81'', ''91'' for ''75'', ''87'' for ''69'', ''81'' for ''62'', ''75'' for ''54'', ''69'' for ''46'', ''62'' for ''38'', ''54'' for ''31'', ''46'' for ''25'', ''38'' for ''18'', ''31'' for ''12'', and ''25'' for ''10''.

Subsec. (c). Pub. L. 91–588, § 2(b), provided new annual income limits to measure monthly compensation of two parents not living together by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $14, $12, and $10, respectively, and within existing annual income limits from a maximum of $800 to a maxi-

mum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$66'' for ''$58'', ''64'' for ''54'', ''61'' for ''50'', ''58'' for ''46'', ''54'' for ''41'', ''50'' for ''35'', ''46'' for ''29'', ''41'' for ''23'', ''35'' for ''20'', ''29'' for ''16'', ''23'' for ''12'', ''20'' for ''11'', and ''16'' for ''10''.

Subsec. (d). Pub. L. 91–588, § 2(c), provided new annual income limits to measure monthly compensation of two parents living together by adding minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $14, $12, and $10, respectively, and within existing annual income limits from a maximum of $1,000 to a maximum of $3,200, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$64'' for ''$58'', ''62'' for ''56'', ''60'' for ''54'', ''58'' for ''52'', ''56'' for ''49'', ''54'' for ''46'', ''52'' for ''44'', ''49'' for ''42'', ''46'' for ''40'', ''44'' for ''38'', ''42'' for ''35'', ''40'' for ''33'', ''38'' for ''31'', ''35'' for ''29'', ''33'' for ''26'', ''31'' for ''23'', ''29'' for ''21'', ''27'' for ''19'', ''25'' for ''17'', ''23'' for ''15'', ''21'' for ''12'', ''19'' for ''11'', and ''17'' for ''10''.

Subsec. (e). Pub. L. 91–588, § 2(d), exempted from filing requirement any parent who has attained 72 years of age and has been paid dependency and indemnity compensation during two consecutive calendar years.

Subsec. (g)(1)(C). Pub. L. 91–588, § 8(a), inserted reference to first sentence of section 9(b) of the Veterans' Pension Act of 1959.

Subsec. (g)(1)(M). Pub. L. 91–588, § 8(a), added subpar. (M).

1968—Subsec. (b)(1). Pub. L. 90–275, § 2(a), in providing new annual income limits to measure monthly compensation of one parent, reenacted minimum income limit of $800 for monthly benefit of $87, struck out prohibition against payments when income is in excess of $1,800, and substituted a sliding scale of payments based on one hundred dollar increments from more than $800 to more than $1,900 to $2,000 for payments of $81 to 10 for former sliding scale based on limits of $800 to 1,100, $1,100 to 1,300, $1,300 to 1,500, and $1,500 to 1,800 for payments of $69, $52, $35, and $18, respectively.

Subsec. (c). Pub. L. 90–275, § 2(b), in providing new annual income limits to measure monthly compensation of two parents not living together, reenacted minimum income limit of $800 for monthly benefit of $58, struck out prohibition against payments when income is in excess of $1,800, and substituted a sliding scale of payments based on one hundred dollar increments from more than $800 to more than $1,900 to $2,000 for payments of $54 to 10 for former sliding scale based on limits of $800 to 1,100, $1,100 to 1,300, $1,300 to 1,500, and $1,500 to 1,800 for payments of $46, $35, $23, and $12, respectively.

Subsec. (d). Pub. L. 90–275, § 2(c), in providing new annual income limits to measure monthly compensation of two parents living together, reenacted minimum combined income limit of $1,000 for monthly benefit of $58, struck out prohibition against payments when income is in excess of $3,000, and substituted a sliding scale of payments based on one hundred dollar increments from more than $1,000 to $3,100 for payments of $56 to 11 for former sliding scale based on five hundred dollar increments from more than $1,000 to $3,000 for payments of $58, $46, $35, $23, and $12.

1966—Subsec. (b). Pub. L. 89–730, § 1(a), designated existing subsection as par. (1), and in par. (1) as so designated, substituted reference to subsec. (b)(2) for subsec. (d), amended table by providing for increased indemnity compensation while permitting the recipient to earn a higher maximum annual income, and added par. (2).

Subsec. (c). Pub. L. 89–730, § 1(b), amended table by providing for increased indemnity compensation while permitting the recipient to earn a higher maximum annual income.

Subsec. (d). Pub. L. 89–730, § 1(c), amended table by providing for increased indemnity compensation while permitting the recipients to earn a higher combined maximum annual income.

Subsec. (g)(1). Pub. L. 89–730, § 2, in cl. (C) struck out ''chapter 11'' and substituted ''chapters 11 and 15'', and added cls. (F) to (L).

1963—Subsec. (b). Pub. L. 88–21, § 4(a), substituted in Column II of table ''$83'', ''$66'', ''$50'', ''$33'', and ''$17'' for ''$75'', ''$60'', ''$45'', ''$30'', and ''$15'', respectively.

Subsecs. (c), (d). Pub. L. 88–21, § 4(b), substituted in Column II of tables ''$55'', ''$44'', ''$33'', ''$22'', and ''$11'' for ''50'', ''$40'', ''$30'', ''$20'' and ''$10'', respectively.

1961—Subsec. (g)(1)(C). Pub. L. 87–268 substituted ''section 412(a)'' for ''section 412''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–204 effective Jan. 1, 1978, see section 302 of Pub. L. 95–204, set out as a note under section 1122 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94–432, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 201 of Pub. L. 94–169, as amended by section 101 of Pub. L. 94–432, eff. Sept. 30, 1976, provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–527 effective Jan. 1, 1975, see section 10 of Pub. L. 93–527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–177 effective Jan. 1, 1974, see section 8 of Pub. L. 93–177, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by sections 2(a)–(c) and 8(a) of Pub. L. 91–588, effective Jan. 1, 1971, and amendment by section 2(d) of Pub. L. 91–588, effective on Jan. 1, 1972, see section 10 of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–275 effective Jan. 1, 1969, see section 6(a) of Pub. L. 90–275, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 7 of Pub. L. 89–730 provided that:

''(a) Except section 6 [enacting and amending provisions set out as notes under section 1976 of this title] and as otherwise provided in subsection (b) of this section, this Act [amending this section and sections 413, 414, and 3012 [now 1313, 1314, and 1512] of this title] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Nov. 2, 1966].

''(b) Section 2 of this Act [amending this section] shall take effect on January 1, 1967, but paragraph (G) of section 415(g)(1) [now 1315(g)(1)], title 38, United States Code, as added by such section 2, shall not apply to any parent receiving dependency and indemnity compensation on December 31, 1966, or subsequently determined entitled to that benefit for said day, until his contributions to the described plans or programs have been recouped.''

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–21 effective first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88–21, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Payments for balance of calendar year 1968 and calendar year 1969, calendar year 1970, and during each successive calendar year at prescribed monthly rates when payments would be less under this title as a result of increase in monthly insurance benefits provided by Social Security Amendments of 1967, see section 3 of Pub. L. 90–275, set out as a note under section 1521 of this title.

§ 1316. Dependency and indemnity compensation in cases of prior deaths

(a)(1) Any person who is eligible as a surviving spouse or child for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor.

(2) Any person who is eligible as a parent, or, but for such person's annual income, would be eligible as a parent, for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor; however, the annual income limitations established by section 1315 of this title shall apply to each such parent.

(b)(1) Whenever the surviving spouse of a veteran has been granted dependency and indemnity compensation by reason of this section, payments to such surviving spouse and to the children of the veteran shall thereafter be made under this chapter, and shall not thereafter be made to them by reason of the death of the veteran under (A) other provisions of law administered by the Secretary providing for the payment of compensation or pension, or (B) subchapter I of chapter 81 of title 5.

(2) Whenever the child or parent of any veteran is granted dependency and indemnity compensation, payments shall not thereafter be made to such child or parent by reason of the death of the veteran under (A) other provisions of law administered by the Secretary providing for the payment of compensation or pension, or (B) subchapter I of chapter 81 of title 5.

(c) If children of a deceased individual are receiving death compensation, and all such children have not applied for dependency and indemnity compensation, (1) dependency and indemnity compensation paid to each child who has applied therefor shall not exceed the amounts which would be paid if the application had been made by, or on behalf of, all such children, and (2) benefits paid under other provisions of law administered by the Secretary providing for the payment of compensation or pension, or under subchapter I of chapter 81 of title 5, to each child who has not so applied therefor shall not exceed the amounts which would be paid to such child if no such application had been made.

(d) If there are two parents of a deceased individual eligible for benefits by reason of subsection (a), and an application for dependency and indemnity compensation is not made by both parents, (1) dependency and indemnity compensation paid to the parent who applies therefor shall not exceed the amounts which would be paid to such parent if both parents had so applied, and (2) benefits paid under other provisions of law administered by the Secretary providing for the payment of compensation, or under subchapter I of chapter 81 of title 5, to the parent who has not so applied therefor shall not exceed the amounts which would be paid to such parent if no such application had been made.

(e)(1) Except as provided in paragraphs (3) and (4), no person who, on January 1, 1957, was a principal or contingent beneficiary of any payments under the Servicemen's Indemnity Act of 1951 may receive any such payments based upon the death giving rise to such payments after such person has been granted dependency and indemnity compensation based upon that death. No principal or contingent beneficiary who has assigned such beneficiary's interest in payments under the Servicemen's Indemnity Act of 1951 after June 28, 1956, may receive any payments under this chapter based upon the death giving rise to such payments until the portion of the indemnity so assigned is no longer payable to any person.

(2) Where a beneficiary is barred from the receipt of payments under the Servicemen's Indemnity Act of 1951 by virtue of the first sentence of paragraph (1), no payments of the portion of indemnity in which such beneficiary had an interest shall be made to any other beneficiary.

(3) In the case of a child who has applied for dependency and indemnity compensation pursuant to this section or prior corresponding provisions of law, and who is or becomes a beneficiary under the Servicemen's Indemnity Act of 1951 by reason of the death giving rise to such child's eligibility for dependency and indemnity compensation, the Secretary shall determine and pay to such child for each month, or part thereof, payments under this chapter or under such Act, whichever payment the Secretary determines to be the greater amount.

(4) Notwithstanding paragraph (2), where a child receives dependency and indemnity compensation under this chapter, and thereafter dies, the portion of servicemen's indemnity in which such child had an interest may be paid (subject to paragraph (3)) to another child of the person by reason of whose death such servicemen's indemnity was payable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1130, § 416; Pub. L. 94–433, title IV, § 405(11)–(16), Sept. 30, 1976, 90 Stat. 1380; Pub. L. 97–295, § 4(11), Oct. 12, 1982, 96 Stat. 1305; renumbered § 1316 and amend-

ed Pub. L. 102–83, §§4(a)(1), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (e), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, as amended, which was classified generally to subchapter II (§851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, §502(9), 70 Stat. 886.

AMENDMENTS

1991—Pub. L. 102–83, §5(a), renumbered section 416 of this title as this section.

Subsec. (a)(2). Pub. L. 102–83, §5(c)(1), substituted ''1315'' for ''415''.

Subsecs. (b) to (d). Pub. L. 102–83, §4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' wherever appearing.

Subsec. (e)(3). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1982—Subsecs. (b)(1)(B), (2)(B), (c)(2), (d)(2). Pub. L. 97–295 substituted ''subchapter I of chapter 81 of title 5'' for ''the Federal Employees' Compensation Act'' wherever appearing.

1976—Subsec. (a). Pub. L. 94–433, §405(11), substituted ''surviving spouse'' for ''widow'' in par. (1) and ''such person's'' for ''his'' in par. (2).

Subsec. (b)(1). Pub. L. 94–433, §405(12), substituted ''surviving spouse'' and ''such surviving spouse'' for ''widow'' and ''her'', respectively.

Subsec. (c). Pub. L. 94–433, §405(13), substituted ''paid to such child'' for ''paid to him''.

Subsec. (d). Pub. L. 94–433, §405(14), substituted ''such parent'' for ''him'' in cls. (1) and (2).

Subsec. (e). Pub. L. 94–433, §405(15), (16), substituted ''such person'' and ''such beneficiary's'' for ''he'' and ''his'', respectively, in par. (1) and ''such child's'' and ''the Administrator'' for ''his'' and ''he'', respectively, in par. (3).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

§ 1317. Restriction on payments under this chapter

(a) Except as provided in subsection (b), no person eligible for dependency and indemnity compensation by reason of any death occurring after December 31, 1956, shall be eligible by reason of such death for any payments under (1) provisions of law administered by the Secretary providing for the payment of death compensation or death pension, or (2) subchapter I of chapter 81 of title 5.

(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1132, §417; Pub. L. 91–291, §13(a), (b), June 25, 1970, 84 Stat. 332; Pub. L. 92–197, §5, Dec. 15, 1971, 85 Stat. 662; Pub. L. 97–295, §4(11), Oct. 12, 1982, 96 Stat. 1305; renumbered §1317 and amended Pub. L. 102–83, §§4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 103–446, title I, §111(a), Nov. 2, 1994, 108 Stat. 4654.)

AMENDMENTS

1994—Pub. L. 103–446 designated existing provisions as subsec. (a), substituted ''Except as provided in subsection (b), no person'' for ''No person'', and added subsec. (b).

1991—Pub. L. 102–83, §5(a), renumbered section 417 of this title as this section.

Pub. L. 102–83, §4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1982—Pub. L. 97–295 substituted ''subchapter I of chapter 81 of title 5'' for ''the Federal Employees' Compensation Act''.

1971—Pub. L. 92–197 struck out subsec. (a) which, among other provisions, restricted payment of dependency and indemnity compensation in certain cases where death of a veteran occurred while United States Government life insurance or National Service Life Insurance was in force under an in-service waiver of premiums continued under section 724 of this title, and designated subsec. (b) as entire section.

1970—Subsec. (a). Pub. L. 91–291 designated material after ''unless'' in first sentence as cl. (1), added cl. (2), and in last sentence substituted ''first sentence'' for ''preceding sentence''.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 13(c) of Pub. L. 91–291 provided that: ''No dependency and indemnity compensation shall be payable to any person by virtue of the amendments made by subsection (a) of this section [amending this section] for any person prior to the effective date of this Act [June 25, 1970].''

Section 14(a) of Pub. L. 91–291 provided that: ''The amendments made by this Act [amending this section and sections 705, 707, 745, 765, 767, 768, 769, 770, and 774 [now 1905, 1907, 1945, 1965, 1967, 1968, 1969, 1970, and 1974] of this title and enacting provisions set out as notes under this section] shall take effect as of the date of enactment [June 25, 1970], except that sections 10 and 12 [amending sections 717 and 752 [now 1917 and 1952] of this title] shall take effect as of the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act [June 25, 1970].''

DEPENDENCY AND INDEMNITY COMPENSATION; ELIGIBILITY

Section 8 of Pub. L. 92–197 provided that: ''Any person who before January 1, 1972, was not eligible for dependency and indemnity compensation under such title by reason of the provisions of the prior section 417(a) of title 38, United States Code, may elect, in such manner as the Administrator of Veterans' Affairs shall prescribe, to receive dependency and indemnity compensation, and an election so made shall be final. A person receiving, or entitled to receive, death compensation on December 31, 1971, shall continue to receive death compensation, if otherwise eligible, in the absence of an election to receive dependency and indemnity compensation.''

§ 1318. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) The Secretary shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) com-

pensation at the time of death for a service-connected disability rated totally disabling if—

(1) the disability was continuously rated totally disabling for a period of 10 or more years immediately preceding death;

(2) the disability was continuously rated totally disabling for a period of not less than five years from the date of such veteran's discharge or other release from active duty; or

(3) the veteran was a former prisoner of war who died after September 30, 1999, and the disability was continuously rated totally disabling for a period of not less than one year immediately preceding death.

(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

(1) the surviving spouse was married to the veteran for one year or more immediately preceding the veteran's death; or

(2) a child was born of the marriage or was born to them before the marriage.

(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 1311(a) of this title.

(Added Pub. L. 100–687, div. B, title XIV, § 1403(a)(1), Nov. 18, 1988, 102 Stat. 4130, § 418; amended Pub. L. 101–237, title I, § 113, Dec. 18, 1989, 103 Stat. 2065; renumbered § 1318 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–117, title V, § 501(b), Nov. 30, 1999, 113 Stat. 1573; Pub. L. 106–419, title IV, § 404(a)(2), Nov. 1, 2000, 114 Stat. 1864.)

AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106–419 substituted ''not less than'' for ''not later than''.

1999—Subsec. (b). Pub. L. 106–117, § 501(b)(1), substituted ''rated totally disabling if—'' for ''that either—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 106–117, § 501(b)(2), inserted ''the disability'' after ''(1)'' and struck out ''or'' after ''death;''.

Subsec. (b)(2). Pub. L. 106–117, § 501(b)(3), substituted ''the disability was continuously rated totally disabling'' for ''if so rated for a lesser period, was so rated continuously'' and substituted ''; or'' for the period at the end.

Subsec. (b)(3). Pub. L. 106–117, § 501(b)(4), added par. (3).

1991—Pub. L. 102–83, § 5(a), renumbered section 418 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1311(a)'' for ''411(a)''.

1989—Subsec. (c)(1). Pub. L. 101–237 substituted ''one year'' for ''two years''.

SUBCHAPTER III—CERTIFICATIONS

§ 1321. Certifications with respect to pay grade

The Secretary concerned shall, at the request of the Secretary, certify to the Secretary the pay grade of deceased persons with respect to whose deaths applications for benefits are filed under this chapter. The certification of the Secretary concerned shall be binding upon the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1132, § 421; Pub. L. 91–96, § 4, Oct. 27, 1969, 83 Stat. 145; Pub. L. 94–433, title IV, § 405(17), Sept. 30, 1976, 90 Stat. 1380; renumbered § 1321 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 421 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary, certify to the Secretary'' for ''Administrator, certify to the Administrator'' and ''upon the Secretary'' for ''upon the Administrator''.

1976—Pub. L. 94–433 substituted ''to the Administrator'' for ''to him''.

1969—Pub. L. 91–96 substituted ''Certifications with respect to pay grade'' for ''Certifications with respect to basic pay'' in section catchline and substituted provisions authorizing certifications with respect to the pay grade of deceased persons for provisions authorizing certifications with respect to the basic pay of deceased persons, considering rank or grade and cumulative years of service for pay purposes, and struck out the provision requiring the adjustment of basic pay as determined by this chapter whenever basic pay (as defined under the former provisions of section 401 of this title) is adjusted.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

§ 1322. Certifications with respect to social security entitlement

(a) Determinations required by section 1312(a) of this title (other than a determination required by section 1312(a)(2) of this title) as to whether any survivor described in section 1312(a)(3) of this title of a deceased individual would be entitled to benefits under section 202 of the Social Security Act (42 U.S.C. 402) for any month and as to the amount of the benefits which would be paid for such month, if the deceased veteran had been a fully and currently insured individual at the time of such veteran's death, shall be made by the Commissioner of Social Security, and shall be certified by the Commissioner to the Secretary upon request of the Secretary.

(b) The Secretary shall pay to the Commissioner of Social Security an amount equal to the

costs which will be incurred in making determinations and certifications under subsection (a). Such payments shall be made with respect to the costs incurred during such period (but not shorter than a calendar quarter) as the Secretary and the Commissioner may prescribe, with the amount of such payments to be made on the basis of estimates made by the Commissioner after consultation with the Secretary. The amount payable for any period shall be increased or reduced to compensate for any underpayment or overpayment, as the case may be, of the costs incurred in any preceding period.

(c) Except with respect to determinations made under subsection (a) of this section, the Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 1312(a) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1132, § 422; Pub. L. 87–268, § 1(b), (c), Sept. 21, 1961, 75 Stat. 566; Pub. L. 94–433, title IV, § 405(18), Sept. 30, 1976, 90 Stat. 1380; Pub. L. 97–295, § 4(12), (95)(A), Oct. 12, 1982, 96 Stat. 1305, 1313; renumbered § 1322 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(A), (E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–183, title VII, § 708(c)(1), Dec. 16, 2003, 117 Stat. 2673.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, § 708(c)(1)(A), substituted ''Commissioner of Social Security, and shall be certified by the Commissioner to the Secretary upon request of the Secretary.'' for ''Secretary of Health and Human Services, and shall be certified by such Secretary to the Secretary of Veterans Affairs upon request of the Secretary of Veterans Affairs.''

Subsec. (b). Pub. L. 108–183, § 708(c)(1)(B), substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' in first sentence and substituted ''the Secretary and the Commissioner'' for ''the two Secretaries'' and ''Commissioner'' for ''Secretary of Health and Human Services'' in second sentence.

1991—Pub. L. 102–83, § 5(a), renumbered section 422 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1312(a)'' for ''412(a)'', ''1312(a)(2)'' for ''412(a)(2)'', ''1312(a)(3)'' for ''412(a)(3)''.

Pub. L. 102–83, § 4(b)(2)(A)(i), substituted ''Secretary of Veterans Affairs'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(2)(A)(ii), substituted ''The Secretary shall pay to the Secretary of Health and Human Services'' for ''Upon the basis of estimates made by the Secretary of Health and Human Services after consultation with the Administrator, the Administrator shall pay to the Secretary'' and ''as the two Secretaries may prescribe, with the amount of such payments to be made on the basis of estimates made by the Secretary of Health and Human Services after consultation with the Secretary'' for ''as the Secretary and the Administrator may prescribe''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1312(a)'' for ''412(a)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1982—Subsec. (a). Pub. L. 97–295, § 4(12), (95)(A), substituted ''section 202 of the Social Security Act (42 U.S.C. 402)'' for ''section 402 of title 42'', and ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (b). Pub. L. 97–295, § 4(95)(A), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1976—Subsec. (a). Pub. L. 94–433 substituted ''such veteran's'' and ''such Secretary'' for ''his'' and ''him'', respectively.

1961—Subsec. (a). Pub. L. 87–268 § 1(c), substituted ''section 412(a)'' for ''section 412'', ''section 412(a)(2)'' for ''section 412(2)'', and ''section 412(a)(3)'' for ''section 412(3)''.

Subsec. (c). Pub. L. 87–268, § 1(b), substituted ''section 412(a)'' for ''section 412''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

§ 1323. Certifications with respect to circumstances of death

Whenever the Secretary determines on the basis of a claim for benefits filed with the Secretary that a death occurred under the circumstances referred to in section 1476(a) of title 10, the Secretary shall certify that fact to the Secretary concerned. In all other cases, the Secretary shall make the determination referred to in such section at the request of the Secretary concerned.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1133, § 423; Pub. L. 94–433, title IV, § 405(19), Sept. 30, 1976, 90 Stat. 1380; Pub. L. 102–54, § 14(b)(4), June 13, 1991, 105 Stat. 283; renumbered § 1323 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), (3)(A), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior sections 1401, 1402, 1411 to 1419, 1421 to 1423, 1431 to 1436, and 1500 were renumbered sections 3001, 3002, 3011 to 3019, 3021 to 3023, 3031 to 3036, and 3100 of this title, respectively.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 423 of this title as this section.

Pub. L. 102–83, § 4(b)(3)(A), substituted ''Certifications with respect to circumstances of death'' for ''Certifications by Administrator'' in section catchline.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary determines'' for ''Administrator determines'', ''Secretary that'' for ''Administrator that'', and in two places ''Secretary shall'' for ''Administrator shall''.

Pub. L. 102–54 struck out ''or section 321(b) of title 32,'' after ''title 10,'' and ''1476(a) or 321(b)'' after ''such section''.

1976—Pub. L. 94–433 substituted ''with the Administrator'' for ''with him'' and ''the Administrator'' for ''he'' before ''shall certify'' and ''shall make''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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AMENDMENTS

2001—Pub. L. 107–103, title II, § 207(a)(2), Dec. 27, 2001, 115 Stat. 991, added item 1513.

1992—Pub. L. 102–568, title IV, §§ 402(c)(2)(B), 403(b)(2), Oct. 29, 1992, 106 Stat. 4337, 4338, substituted ''Vocational training for certain pension recipients'' for ''Temporary program of vocational training for certain new pension recipients'' in item 1524 and ''Protection'' for ''Temporary protection'' in item 1525.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 501 to 562 as 1501 to 1562, respectively.

Pub. L. 102–25, title III, § 333(c)(2), Apr. 6, 1991, 105 Stat. 88, substituted ''OTHER PERIODS OF WAR'' for ''MEXICAN BORDER PERIOD, WORLD WAR I, WORLD WAR II, KOREAN CONFLICT, AND THE VIETNAM ERA'' as subheading preceding item 541.

1986—Pub. L. 99–576, title VII, § 703(b)(3), Oct. 28, 1986, 100 Stat. 3303, inserted ''program of'' after ''Temporary'' in item 524.

1984—Pub. L. 98–543, title III, § 301(a)(2), Oct. 24, 1984, 98 Stat. 2746, added items 524 and 525.

1982—Pub. L. 97–295, § 4(14), Oct. 12, 1982, 96 Stat. 1305, substituted ''Honor Roll'' for ''honor roll'' in item 560.

1978—Pub. L. 95–588, title I, §§ 104(b), 106(b), 109(b), 110(b), 112(b), Nov. 4, 1978, 92 Stat. 2499, 2502, 2504, 2505, added item 508, substituted ''Veterans of a period of war'' for ''Veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era'' in item 521, substituted ''Surviving spouses of veterans of a period of war'' for ''Surviving spouses of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans'' in item 541, substituted ''Children of veterans of a period of war'' for ''Children of Mexican border period, World War I, World War II, Korean conflict, or Vietnam era veterans'' in item 542, struck out heading ''SURVIVING SPOUSES OF VETERANS OF ALL PERIODS OF WAR'' following item 543, and struck out item 544.

1975—Pub. L. 94–169, title I, §§ 101(2)(J), 106(24), (30), (38), Dec. 23, 1975, 89 Stat. 1014, 1018, 1019, struck out items 510 relating to confederate forces veterans, and 531 relating to widows of Mexican War veterans, substituted ''Surviving Spouses'' for ''Widows'' in heading of Subchapter III and subheading preceding item 544, and substituted ''Surviving spouses'' for ''Widows'' in items 532, 534, 536 and 541.

1970—Pub. L. 91–588, § 9(h), Dec. 24, 1970, 84 Stat. 1585, inserted references to the Mexican border period in subheading preceding item 541 and in items 521, 541, and 542, respectively.

1967—Pub. L. 90–77, title I, § 108(b), title II, § 202(i), Aug. 31, 1967, 81 Stat. 180, 183, added item 544 and included references to Vietnam era in subheading preceding item 541 and in items 521, 541, and 542, respectively.

1966—Pub. L. 89–467, § 1(b), June 22, 1966, 80 Stat. 218, added item 507.

1963—Pub. L. 88–77, § 5(3), July 25, 1963, 77 Stat. 96, substituted ''ARMY, NAVY, AIR FORCE, AND COAST GUARD'' for ''ARMY, NAVY, AND AIR FORCE'', in heading of Subchapter IV.

1961—Pub. L. 87–138, § 2(b), Aug. 14, 1961, 75 Stat. 339, struck out ''entitling holder to pension'' after ''Certificate'' in item 561.

1959—Pub. L. 86–211, § 7(a), Aug. 29, 1959, 73 Stat. 436, substituted ''Determinations with respect to annual income'' for ''Items not considered in determining income'' in item 503, ''Net worth limitation'' for ''Income limitations'' in item 522, and ''Net worth limitation'' for ''Widows of World War II or Korean conflict veterans'' in item 543, included widows of World War II and Korean conflict veterans in item 541 and children of World War II and Korean conflict veterans in item 542, added item 506, and struck out items 544 and 545 which related to children of World War II or Korean conflict veterans and to income limitations.

SUBCHAPTER I—GENERAL

§ 1501. Definitions

For the purposes of this chapter—

(1) The term ''Indian Wars'' means the campaigns, engagements, and expeditions of the United States military forces against Indian tribes or nations, service in which has been recognized heretofore as pensionable service.

(2) The term ''World War I'' includes, in the case of any veteran, any period of service performed by such veteran after November 11, 1918, and before July 2, 1921, if such veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

(3) The term ''Civil War veteran'' includes a person who served in the military or naval forces of the Confederate States of America during the Civil War, and the term ''active military or naval service'' includes active service in those forces.

(4) The term ''period of war'' means the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, the Persian Gulf War, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of the Congress.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1134, § 501; Pub. L. 94–169, title I, § 106(1), Dec. 23, 1975, 89

Stat. 1017; Pub. L. 95–588, title I, § 101, Nov. 4, 1978, 92 Stat. 2497; Pub. L. 102–25, title III, § 333(a), Apr. 6, 1991, 105 Stat. 88; renumbered § 1501, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior sections 1500 and 1501 were renumbered sections 3100 and 3101 of this title, respectively.

Another prior section 1501, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1171; Pub. L. 93–508, title I, § 101(1), Dec. 3, 1974, 88 Stat. 1578, defined ''World War II'' and ''vocational rehabilitation'' for purposes of chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1501 continue in effect until Mar. 31, 1981.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 501 of this title as this section.

Par. (4). Pub. L. 102–25 inserted ''the Persian Gulf War,'' after ''the Vietnam era,''.

1978—Par. (4). Pub. L. 95–588 added par. (4).

1975—Par. (2). Pub. L. 94–169 substituted ''such veteran'' for ''him''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

PENSION PROGRAM FOR NONSERVICE-CONNECTED DISABILITY OR DEATH; REPORT BY ADMINISTRATOR

Pub. L. 94–432, title IV, § 404, Sept. 30, 1976, 90 Stat. 1372, provided that, due to certain insufficiencies in pension program for nonservice-connected disability or death authorized by this chapter, and lack of sufficient long-range information as to actual and anticipated financial characteristics of potential pensioners and their families upon which to estimate costs of existing alternative pension programs, it was necessary for Administrator of Veterans' Affairs to study existing and alternative nonservice-connected pension programs and to submit a report to Congress and the President not later than Oct. 1, 1977, on alternative courses of legislative and administrative action and long-range cost estimates therefor.

STUDY OF NEEDS AND PROBLEMS OF VETERANS AND THEIR WIDOWS SEVENTY-TWO YEARS OF AGE OR OLDER; REPORT BY ADMINISTRATOR

Pub. L. 93–527, § 8, Dec. 21, 1974, 88 Stat. 1705, directed Administrator of Veterans' Affairs to study needs and problems of veterans and their widows seventy-two years of age or older and required him to report to Congress and President not later than one hundred and eighty days after convening of Ninety-fourth Congress results of study together with any recommendations for legislative or administrative action.

§ 1502. Determinations with respect to disability

(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if such person is any of the following:

(1) A patient in a nursing home for long-term care because of disability.

(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner.

(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

(4) Suffering from—

(A) any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or

(B) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.

(b) For the purposes of this chapter, a person shall be considered to be in need of regular aid and attendance if such person is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(c) For the purposes of this chapter, the requirement of ''permanently housebound'' will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1134, § 502; Pub. L. 88–664, § 6(b), Oct. 13, 1964, 78 Stat. 1095; Pub. L. 90–77, title I, § 102, Aug. 31, 1967, 81 Stat. 178; Pub. L. 94–169, title I, § 106(2), Dec. 23, 1975, 89 Stat. 1017; Pub. L. 94–432, title II, § 201, Sept. 30, 1976, 90 Stat. 1369; Pub. L. 101–508, title VIII, § 8002(a), Nov. 5, 1990, 104 Stat. 1388–342; renumbered § 1502 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 107–103, title II, § 206(a), Dec. 27, 2001, 115 Stat. 990.)

PRIOR PROVISIONS

Prior section 1502 was renumbered section 3102 of this title.

Another prior section 1502, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1171; Pub. L. 86–721, § 3, Sept. 8, 1960, 74 Stat. 820; Pub. L. 87–815, § 7, Oct. 15, 1962, 76 Stat. 927; Pub. L. 89–138, § 2(2), Aug. 26, 1965, 79 Stat. 578; Pub. L. 90–631, § 1(a), Oct. 23, 1968, 82 Stat. 1331; Pub. L. 92–540, title I, § 101(1), title III, § 301, Oct. 24, 1972, 86 Stat. 1074, 1080; Pub. L. 93–508, title I, § 101(2), Dec. 3, 1974, 88 Stat. 1578; Pub. L. 94–502, title I, § 104(1), Oct. 15, 1976, 90 Stat. 2384, related to the basic entitlement of veterans with service-connected disabilities to vocational rehabilitation under chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1502 continue in effect until Mar. 31, 1981.

Prior section 1502A, Pub. L. 87–591, § 1, Aug. 16, 1962, 76 Stat. 393, which related to vocational rehabilitation for blinded veterans, was repealed by Pub. L. 89–138, § 2(3), Aug. 26, 1965, 79 Stat. 578.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–103 substituted ''such person is any of the following:'' and pars. (1) to (4) for ''such a person is unemployable as a result of disability reasonably certain to continue throughout the life of the disabled person, or is suffering from—

''(1) any disability which is sufficient to render it impossible for the average person to follow a substan-

tially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the disabled person; or

''(2) any disease or disorder determined by the Secretary to be of such a nature or extent as to justify a determination that persons suffering therefrom are permanently and totally disabled.''

1991—Pub. L. 102–83, § 5(a), renumbered section 502 of this title as this section.

Subsec. (a)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1990—Subsec. (a). Pub. L. 101–508 amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if such person is sixty-five years of age or older or became unemployable after age 65, or suffering from—''.

1976—Subsec. (a). Pub. L. 94–432 inserted ''or became unemployable after age 65,'' after ''or older''.

1975—Subsecs. (a) and (b). Pub. L. 94–169 substituted ''such person'' for ''he''.

Subsec. (c). Pub. L. 94–169 substituted ''such veteran's'' for ''his'' wherever appearing.

1967—Subsec. (a). Pub. L. 90–77, § 102(a), provided for consideration of a person sixty-five years of age or older as permanently and totally disabled.

Subsec. (b). Pub. L. 90–77, § 102(b), added cl. (1) and designated existing provisions as cl. (2).

1964—Subsec. (c). Pub. L. 88–664 added subsec. (c).

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title II, § 206(b), Dec. 27, 2001, 115 Stat. 991, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of September 17, 2001.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8002(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to claims filed after October 31, 1990.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94–432, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

§ 1503. Determinations with respect to annual income

(a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except—

(1) donations from public or private relief or welfare organizations;

(2) payments under this chapter;

(3) amounts equal to amounts paid by a spouse of a veteran for the expenses of such veteran's last illness, and by a surviving spouse or child of a deceased veteran for—

(A) such veteran's just debts,

(B) the expenses of such veteran's last illness, and

(C) the expenses of such veteran's burial to the extent such expenses are not reimbursed under chapter 23 of this title;

(4) amounts equal to amounts paid—

(A) by a veteran for the last illness and burial of such veteran's deceased spouse or child, or

(B) by the spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;

(5) reimbursements of any kind for any casualty loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;

(6) profit realized from the disposition of real or personal property other than in the course of a business;

(7) amounts in joint accounts in banks and similar institutions acquired by reason of death of other joint owner;

(8) amounts equal to amounts paid by a veteran, veterans' spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 percent of the maximum annual rate of pension (including any amount of increased pension payable on account of family members but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child;

(9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books, and materials, and (B) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available);

(10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of—

(A) the lowest amount of gross income for which an income tax return is required under section 6012(a) of the Internal Revenue Code of 1986, to be filed by an individual who is not married (as determined under section

7703 of such Code), is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

(B) if the child is pursuing a course of post-secondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials; and

(11) lump-sum proceeds of any life insurance policy on a veteran, for purposes of pension under subchapter III of this chapter.

(b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1134, § 503; Pub. L. 86–211, § 2(a), Aug. 29, 1959, 73 Stat. 432; Pub. L. 87–268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88–664, § 1, Oct. 13, 1964, 78 Stat. 1094; Pub. L. 90–77, title I, § 103, Aug. 31, 1967, 81 Stat. 178; Pub. L. 91–588, § 7, Dec. 24, 1970, 84 Stat. 1584; Pub. L. 92–198, § 2, Dec. 15, 1971, 85 Stat. 664; Pub. L. 92–425, § 6(2), Sept. 21, 1972, 86 Stat. 713; Pub. L. 94–169, title I, §§ 101(2)(A), 106(3)–(8), Dec. 23, 1975, 89 Stat. 1013, 1017; Pub. L. 95–588, title I, § 102, Nov. 4, 1978, 92 Stat. 2497; Pub. L. 97–295, § 4(13), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 100–687, div. B, title XIV, § 1402(b), Nov. 18, 1988, 102 Stat. 4130; Pub. L. 102–54, § 14(b)(5), June 13, 1991, 105 Stat. 283; renumbered § 1503 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–454, title III, § 303, Dec. 10, 2004, 118 Stat. 3611.)

REFERENCES IN TEXT

Sections 2, 6012(a), and 7703 of the Internal Revenue Code of 1986, referred to in subsec. (a)(10)(A), are classified to sections 2, 6012(a), and 7703 of Title 26, Internal Revenue Code, respectively.

PRIOR PROVISIONS

Prior section 1503 was renumbered section 3103 of this title.

Another prior section 1503, added Pub. L. 89–138, § 1, Aug. 26, 1965, 79 Stat. 577; amended Pub. L. 91–24, § 8, June 11, 1969, 83 Stat. 34; Pub. L. 94–502, title I, §§ 102, 104(2), (3), Oct. 15, 1976, 90 Stat. 2384, related to periods of eligibility for vocational rehabilitation under chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1503 continue in effect until Mar. 31, 1981.

Another prior section 1503, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1171, was renumbered 1511 by Pub. L. 89–138, § 2(4), Aug. 26, 1965, 79 Stat. 578.

AMENDMENTS

2004—Subsec. (a)(11). Pub. L. 108–454 added par. (11).

1991—Pub. L. 102–83, § 5(a), renumbered section 503 of this title as this section.

Subsec. (a)(5). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (a)(8). Pub. L. 102–54, § 14(b)(5)(A), substituted ''percent'' for ''per centum''.

Subsec. (a)(10)(A). Pub. L. 102–54, § 14(b)(5)(B), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954 (26 U.S.C. 6012(a))'' and ''section 7703'' for ''section 143''.

1988—Subsec. (a)(5). Pub. L. 100–687 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''proceeds of fire insurance policies;''.

1982—Subsec. (a)(10)(A). Pub. L. 97–295 inserted ''(26 U.S.C. 6012(a))'' after ''Code of 1954''.

1978—Subsec. (a)(1). Pub. L. 95–588, § 102(a)(1), (2), redesignated par. (2) as (1) and struck out former par. (1) which related to payments of six-months death gratuity.

Subsec. (a)(2). Pub. L. 95–588, § 102(a)(3), redesignated par. (3) as (2) and, as so redesignated, struck out '', and chapters 11 and 13 (except section 412(a)) of this title'' after ''chapter''. Former par. (2) redesignated (1).

Subsec. (a)(3). Pub. L. 95–588, § 102(a)(5), redesignated par. (7) as (3). Former par. (3) redesignated (2).

Subsec. (a)(4). Pub. L. 95–588, § 102(a)(4), (6), added par. (4) and struck out former par. (4) which related to payments under servicemen's life insurance or servicemen's indemnity.

Subsec. (a)(5). Pub. L. 95–588, § 102(a)(4), (7), redesignated par. (8) as (5) and struck out former par. (5) which related to lump sum death payments.

Subsec. (a)(6). Pub. L. 95–588, § 102(a)(4), (9), redesignated par. (10) as (6) and struck out former par. (6) which related to the ten per cent exclusion for individuals under public or private retirement, annuity, endowment, or similar programs.

Subsec. (a)(7). Pub. L. 95–588, § 102(a)(11), redesignated par. (15) as (7). Former par. (7) redesignated (3).

Subsec. (a)(8). Pub. L. 95–588, § 102(a)(13), added par. (8). Former par. (8) redesignated (5).

Subsec. (a)(9). Pub. L. 95–588, § 102(a)(8), (13), added par. (9) and struck out former par. (9) which related to payments for final illness and burial.

Subsec. (a)(10). Pub. L. 95–588, § 102(a)(13), added par. (10). Former subsec. (10) redesignated (6).

Subsec. (a)(11) to (14). Pub. L. 95–588, § 102(a)(10), struck out pars. (11) to (14) which related to payments for discharge of jury duty, educational assistance allowances, bonuses based on service in the Armed Forces, and indebtednesses secured by mortgages, respectively.

Subsec. (a)(15). Pub. L. 95–588, § 102(a)(11), redesignated par. (15) as (7).

Subsec. (a)(16), (17). Pub. L. 95–588, § 102(a)(12), struck out pars. (16) and (17) which related to payments received by retired persons and payments of annuities, respectively.

Subsec. (c). Pub. L. 95–588, § 102(b), struck out former subsec. (c) which related to the power of the Administrator to exclude from income amounts paid by a veteran, surviving spouse, or child for unusual medical expenses.

1975—Subsec. (a)(7). Pub. L. 94–169, § 106(3), (4), substituted ''spouse'' for ''wife'', ''such veteran's'' for ''his'' and ''surviving spouse'' for ''widow'' in introductory clause and ''such veteran's'' for ''his'' in subcls. (A), (B) and (C).

Subsec. (a)(9). Pub. L. 94–169, § 106(5), substituted ''such veteran's'' for ''his'' in subcl. (A) and ''surviving spouse'' and ''spouse'' for ''widow'' and ''wife'', respectively, in subcl. (B).

Subsec. (a)(14). Pub. L. 94–169, § 106(6), substituted ''such veteran's surviving spouse'' for ''his widow''.

Subsec. (a)(16). Pub. L. 94–169, §§ 101(2)(A), 106(7), inserted ''and'' after ''as amended;'', and substituted ''such employee's'' for ''his'', respectively.

Subsec. (c). Pub. L. 94–169, § 106(8), substituted ''surviving spouse'' for ''widow''.

1972—Par. (17). Pub. L. 92–425 substituted ''subchapter I of chapter 73 of title 10'' for ''chapter 73 of title 10''.

1971—Pub. L. 92–198 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1970—Par. (4). Pub. L. 91–588, § 7(1), inserted reference to servicemen's group life insurance.

Pars. (14) to (17). Pub. L. 91–588, § 7(3), added pars. (14) to (17).

1967—Par. (7). Pub. L. 90–77, § 103(a), provided for exclusion of amounts paid by a wife of a veteran for the expenses of his past illness.

Par. (9). Pub. L. 90–77, § 103(b), designated existing provisions as subpar. (A) and added subpar. (B).

1964—Par. (6). Pub. L. 88–664, § 1(a), inserted ''10 per centum of the amount of'' before ''payments'' and

struck out ''equal to his contributions thereto'' after ''programs''.

Pars. (9) to (13). Pub. L. 88–664, § 1(b), added pars. (9) to (13).

1961—Pub. L. 87–268 substituted ''section 412(a)'' for ''section 412''.

1959—Pub. L. 86–211 among other changes, required the inclusion of all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived), and permitted the exclusion of donations from public or private relief or welfare organizations, payments under policies of United States Government life insurance or National Service Life Insurance, and payments of servicemen's indemnity, lump sum death payments, payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs equal to his contributions thereto, amounts equal to amounts paid by a widow or child for the veteran's just debts, expenses of his last illness, and expenses of his burial to the extent such expenses are not reimbursed under chapter 23 of this title, and proceeds of life insurance policies.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Sections 101 and 106 of Pub. L. 94–169 provided that the amendments made by those sections are effective Jan. 1, 1976.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–198 effective Jan. 1, 1972, see section 6 of Pub. L. 92–198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 11 of Pub. L. 88–664 provided that:

''(a) Except as otherwise provided herein, this Act [amending this section and sections 502, 506, 521, 541, 542, 612, and 3104 [now 1502, 1506, 1521, 1541, 1542, 1712, and 5304] of this title and enacting provisions set out as a note under section 1521 of this title] shall take effect on January 1, 1965.

''(b) The amendment to paragraph (6) of section 503 [now 1503], title 38, United States Code, shall not apply to any individual receiving pension on December 31, 1964, under chapter 15 of said title, or subsequently determined entitled to such pension for said day, until his contributions have been recouped under the provision of that paragraph in effect on December 31, 1964.''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as an Effective Date note under section 1506 of this title.

§ 1504. Persons heretofore having a pensionable status

The pension benefits of subchapters II and III of this chapter shall, notwithstanding the service requirements of such subchapters, be granted to persons heretofore recognized by law as having a pensionable status.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1134, § 504; renumbered § 1504, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 1504 was renumbered section 3104 of this title.

Another prior section 1504, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1172; Pub. L. 89–137, § 1(a), Aug. 26, 1965, 79 Stat. 576; Pub. L. 90–431, July 26, 1968, 82 Stat. 447; Pub. L. 91–219, title I, § 101, Mar. 26, 1970, 84 Stat. 76; Pub. L. 92–540, title I, § 101(2), Oct. 24, 1972, 86 Stat. 1074; Pub. L. 93–508, title I, § 101(3), Dec. 3, 1974, 88 Stat. 1579; Pub. L. 93–602, title II, § 202, Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title I, §§ 101, 104(4), Oct. 15, 1976, 90 Stat. 2383, 2384; Pub. L. 95–202, title I, § 101, Nov. 23, 1977, 91 Stat. 1433, related to subsistence allowances to be paid veterans while pursuing a course of vocational rehabilitation training under chapter 31 of this title, prior to repeal, effective Oct. 1, 1980, by Pub. L. 96–466, title VIII, § 802(a)(4), Oct. 17, 1980, 94 Stat. 2218. See section 3108 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 504 of this title as this section.

§ 1505. Payment of pension during confinement in penal institutions

(a) No pension under public or private laws administered by the Secretary shall be paid to or for an individual who has been imprisoned in a Federal, State, or local penal institution as a result of conviction of a felony or misdemeanor for any part of the period beginning sixty-one days after such individual's imprisonment begins and ending when such individual's imprisonment ends.

(b) Where any veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Secretary may apportion and pay to such veteran's spouse or children the pension which such veteran would receive for that period but for this section.

(c) Where any surviving spouse or child of a veteran is disqualified for pension for any period solely by reason of subsection (a) of this section, the Secretary may (1) if the surviving spouse is so disqualified, pay to the child, or children, the pension which would be payable if there were no such surviving spouse or (2) if a child is so disqualified, pay to the surviving spouse or other children, as applicable, the pension which would be payable if there were no such child.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1134, § 505; Pub. L. 94–169, title I, § 106(9)–(11), Dec. 23, 1975, 89 Stat. 1017; renumbered § 1505 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

PRIOR PROVISIONS

Prior section 1505 was renumbered section 3105 of this title.

Another prior section 1505, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1172; Pub. L. 94–502, title I, § 104(5), Oct. 15, 1976, 90 Stat. 2384, related to leaves of absence to veterans pursuing a course of vocational rehabilitation training under chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effec-

tive Date note under section 3100 of this title, provided that this prior section 1505 continue in effect until Mar. 31, 1981. See section 3110 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 505 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsecs. (b), (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1975—Subsec. (a). Pub. L. 94–169, § 106(9), substituted ''such individual's'' for ''his'' wherever appearing.

Subsec. (b). Pub. L. 94–169, § 106(10), substituted ''such veteran's spouse'' for ''his wife''.

Subsec. (c). Pub. L. 94–169, § 106(11), substituted ''surviving spouse'' for ''widow'' wherever appearing.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

§ 1506. Resource reports and overpayment adjustments

As a condition of granting or continuing pension under section 1521, 1541, or 1542 of this title, the Secretary—

(1) may require from any person who is an applicant for or a recipient of pension such information, proofs, and evidence as the Secretary determines to be necessary in order to determine the annual income and the value of the corpus of the estate of such person, and of any spouse or child for whom the person is receiving or is to receive increased pension (such a child is hereinafter in this subsection referred to as a ''dependent child''), and, in the case of a child applying for or in receipt of pension under section 1542 of this title (hereinafter in this subsection referred to as a ''surviving child''), of any person with whom such child is residing who is legally responsible for such child's support;

(2) may require that any such applicant or recipient file for a calendar year with the Department (on such form as may be prescribed for such purpose by the Secretary) a report showing—

(A) the annual income which such applicant or recipient (and any such spouse or dependent child) received during the preceding year, the corpus of the estate of such applicant or recipient (and of any such spouse or dependent child) at the end of such year, and in the case of a surviving child, the income and corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support;

(B) such applicant's or recipient's estimate for the then current year of the annual income such applicant or recipient (and any such spouse or dependent child) expects to receive and of any expected increase in the value of the corpus of the estate of such applicant or recipient (and for any such spouse or dependent child); and

(C) in the case of a surviving child, an estimate for the then current year of the annual income of any person with whom such child is residing who is legally responsible for such child's support and of any expected increase in the value of the corpus of the estate of such person;

(3) shall require that any such applicant or recipient promptly notify the Secretary whenever there is a material change in the annual income of such applicant or recipient (or of any such spouse or dependent child) or a material change in the value of the corpus of the estate of such applicant or recipient (or of any such spouse or dependent child), and in the case of a surviving child, a material change in the annual income or value of the corpus of the estate of any person with whom such child is residing who is legally responsible for such child's support; and

(4) shall require that any such applicant or recipient applying for or in receipt of increased pension on account of a person who is a spouse or child of such applicant or recipient promptly notify the Secretary if such person ceases to meet the applicable definition of spouse or child.

(Added Pub. L. 86–211, § 2(b), Aug. 29, 1959, 73 Stat. 432, § 506; amended Pub. L. 88–664, § 2, Oct. 13, 1964, 78 Stat. 1094; Pub. L. 91–588, § 6, Dec. 24, 1970, 84 Stat. 1584; Pub. L. 94–169, title I, § 106(12)–(14), Dec. 23, 1975, 89 Stat. 1017; Pub. L. 95–588, title I, § 103, Nov. 4, 1978, 92 Stat. 2498; Pub. L. 96–466, title VI, § 605(c)(2), Oct. 17, 1980, 94 Stat. 2211; renumbered § 1506 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–271, § 9(b), July 1, 1994, 108 Stat. 743.)

PRIOR PROVISIONS

Prior section 1506 was renumbered section 3106 of this title.

Another prior section 1506, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1173, authorized Administrator to furnish veterans receiving vocational rehabilitation such medical care, treatment, hospitalization, and prosthesis as were necessary to accomplish the purposes of chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1506 continue in effect until Mar. 31, 1981. See section 3104 of this title.

AMENDMENTS

1994—Par. (2). Pub. L. 103–271, § 9(b)(1), substituted ''may require'' for ''shall require'' and ''file for a calendar year'' for ''file each year'' in introductory provisions.

Par. (3). Pub. L. 103–271, § 9(b)(2), substituted ''notify the Secretary'' for ''file a revised report'', struck out ''estimated'' before ''annual income'' in two places, and struck out ''such applicant's or recipient's estimate of'' before ''the value of the corpus of the estate of such applicant''.

1991—Pub. L. 102–83, § 5(a), renumbered section 506 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1521, 1541, or 1542'' for ''521, 541, or 542'' in introductory provisions and ''1542'' for ''542'' in par. (1).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and pars. (1), (2), and (4).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in par. (2) introductory provisions.

1980—Pub. L. 96–466 struck out ''(a)'' before ''As a condition'' and struck out subsec. (b) which provided that in the event of an overpayment of pension under section 521, 541, or 542 of this title, the amount thereof be deducted (unless waived) from any future payments made thereunder to the person concerned.

1978—Subsec. (a). Pub. L. 95–588 inserted provision authorizing the Administrator to consider the income of a spouse or child prior to granting a pension in par. (1), struck out exclusion from filing report for a child or person of 72 years of age or more who has been paid a pension for two consecutive years in par. (2), required changes in income of spouse or dependent child be included in the necessary revised income report in par. (3), and added par. (4).

1975—Subsec. (a). Pub. L. 94–169 substituted ''the Administrator'' for ''he'' in par. (1), ''the Administrator'' for ''him'', ''such person'' for ''he'' and ''such person's'' for ''his'' wherever appearing, in par. (2), and ''such person's'' for ''his'' wherever appearing, in par. (3).

1970—Subsec. (a)(2). Pub. L. 91–588 exempted from filing requirements of this section any person who has attained 72 years of age and has been paid a pension under sections 521, 541, or 542 of this title during two consecutive calendar years.

1964—Subsec. (a)(2). Pub. L. 88–664 inserted '', other than a child,'' after ''person''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as a note under section 5314 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1972, see section 10(b) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

EFFECTIVE DATE

Section 10 of Pub. L. 86–211 provided that: ''This Act [see Tables for classification] shall take effect on July 1, 1960.''

§ 1507. Disappearance

Where a veteran receiving pension under subchapter II of this chapter disappears, the Secretary may pay the pension otherwise payable to such veteran's spouse and children. In applying the provisions of this section, the Secretary may presume, without reports pursuant to section 1506(a) of this title, that the status of the veteran at the time of disappearance, with respect to permanent and total disability, income, and net worth, continues unchanged. Payments made to a spouse or child under this section shall not exceed the amount to which each would be entitled if the veteran died of a nonservice-connected disability.

(Added Pub. L. 89–467, § 1(a), June 22, 1966, 80 Stat. 218, § 507; amended Pub. L. 94–169, title I, § 106(15), Dec. 23, 1975, 89 Stat. 1017; renumbered § 1507 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1507 was renumbered section 3107 of this title.

Another prior section 1507, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 92–540, title I, § 101(3), Oct. 24, 1972, 86 Stat. 1074; Pub. L. 94–502, title I, § 104(6), Oct. 15, 1976, 90 Stat. 2384, related to loans to trainees commencing or undertaking courses of vocational rehabilitation under chapter 31 of this title, prior to repeal, effective Oct. 1, 1980, by Pub. L. 96–466, title VIII, § 802(a)(4), Oct. 17, 1980, 94 Stat. 2218. See section 3112 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 507 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1506(a)'' for ''506(a)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1975—Pub. L. 94–169 struck out ''in his discretion'' after ''Administrator'' and substituted ''payable to such veteran's spouse'' for ''payable to his wife,'' and ''made to a spouse'' for ''made to a wife''.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

§ 1508. Frequency of payment of pension benefits

(a) Except as provided under subsection (b) of this section, benefits under sections 1521, 1541, and 1542 of this title shall be paid monthly.

(b) Under regulations which the Secretary shall prescribe, benefits under sections 1521, 1541, and 1542 of this title may be paid less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum annual rate payable to a veteran under section 1521(b) of this title.

(Added Pub. L. 95–588, title I, § 104(a), Nov. 4, 1978, 92 Stat. 2499, § 508; amended Pub. L. 102–54, § 14(b)(6), June 13, 1991, 105 Stat. 283; renumbered § 1508 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1508 was renumbered section 3108 of this title.

Another prior section 1508, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 94–502, title I, § 104(7), Oct. 15, 1976, 90 Stat. 2384, authorized Administrator to prescribe rules and regulations to promote good conduct and cooperation on the part of veterans receiving vocational rehabilitation under chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1508 continue in effect until Mar. 31, 1981. See section 3111 of this title.

Prior section 1509 was renumbered section 3109 of this title.

Another prior section 1509, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 94–502, title I, § 104(8), (9), Oct. 15, 1976, 90 Stat. 2384, related to books, supplies, and equipment furnished a veteran under chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1509 continue in effect until Mar. 31, 1981.

Prior section 1510 was renumbered section 3110 of this title.

Another prior section 1510, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1173; Pub. L. 94–502, title I, § 104(10), Oct. 15, 1976, 90 Stat. 2384, related to vocational rehabilitation of persons hospitalized pending final discharge from the active military, naval, or air service, prior to the general revision of chapter 31 of this title by Pub.

L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of chapter 31 of this title, provided that this prior section 1510 continue in effect until Mar. 31, 1981. See section 3113 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 508 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1521, 1541, and 1542'' for ''521, 541, and 542''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1521, 1541, and 1542'' for ''521, 541, and 542'' and ''1521(b)'' for ''521(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–54 substituted ''percent'' for ''per centum''.

EFFECTIVE DATE

Section effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as an Effective Date of 1978 Amendment note under section 101 of this title.

SUBCHAPTER II—VETERANS' PENSIONS

SERVICE PENSION

[§ 1510. Vacant]

CODIFICATION

Prior to renumbering of sections 501 to 543 of this chapter as sections 1501 to 1543 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 510 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1135, which provided monthly pension for persons who served in military or naval forces of Confederate States of America, was repealed by Pub. L. 94–169, title I, § 101(2)(F), Dec. 23, 1975, 89 Stat. 1014, effective Jan. 1, 1976.

§ 1511. Indian War veterans

(a) The Secretary shall pay to each veteran of the Indian Wars who meets the service requirements of this section a pension at the following monthly rate:

(1) $101.59; or

(2) $135.45 if the veteran is in need of regular aid and attendance.

(b) A veteran meets the service requirements of this section if such veteran served in one of the Indian Wars—

(1) for thirty days or more; or

(2) for the duration of such Indian War;

in any military organization, whether or not such service was the result of regular muster into the service of the United States, if such service was under the authority or by the approval of the United States or any State.

(c)(1) Any veteran eligible for pension under this section shall, if such veteran so elects, be paid pension at the rates prescribed by section 1521 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of World War I. If pension is paid pursuant to such an election, the election shall be irrevocable, except as provided in paragraph (2).

(2) The Secretary shall pay each month to each veteran of the Indian Wars who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that provided by paragraph (2) of subsection (a) of this section, or (B) that which is payable to the veteran under section 1521 of this title if such veteran has elected, or would be payable if such veteran were to elect, to receive pension under such section pursuant to paragraph (1) of this subsection. Each change in the amount of pension payment required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1135, § 511; Pub. L. 86–670, § 1, July 14, 1960, 74 Stat. 545; Pub. L. 90–77, title I, § 111(a), Aug. 31, 1967, 81 Stat. 181; Pub. L. 94–169, title I, § 106(16), Dec. 23, 1975, 89 Stat. 1017; renumbered § 1511 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1511 was renumbered section 3111 of this title.

Another prior section 1511, Pub. L. 85–857, Sept. 2,1958, 72 Stat. 1171, § 1503, renumbered Pub. L. 89–138, § 2(4), Aug. 26, 1965, 79 Stat. 578, and amended Pub. L. 94–502, title , §§ 103, 104(11), Oct. 15, 1976, 90 Stat. 2384, related to training and training facilities under chapter 31 of this title, prior to the general revision of chapter 31 of this title by Pub. L. 96–466. Section 802(a)(3) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title, provided that this prior section 1511 continue in effect until Mar. 31, 1981. See section 3115 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 511 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1521'' for ''521'' in pars. (1) and (2).

Subsec. (c)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1975—Subsecs. (b), (c). Pub. L. 94–169 substituted ''such veteran'' for ''he'' wherever appearing.

1967—Subsec. (c). Pub. L. 90–77 designated existing provisions as par. (1), inserted ''except as provided in paragraph (2)'', and added par. (2).

1960—Subsec. (c). Pub. L. 86–670 added subsec. (c).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 3 of Pub. L. 86–670 provided that: ''This Act [amending this section and section 512 [now 1512] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [July 14, 1960].''

§ 1512. Spanish-American War veterans

(a)(1) The Secretary shall pay to each veteran of the Spanish-American War who meets the service requirements of this subsection a pension at the following monthly rate:

(A) $101.59; or

(B) $135.45 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for ninety days or more during the Spanish-American War;

(B) during the Spanish-American War and was discharged or released from such service for a service-connected disability; or

(C) for a period of ninety consecutive days or more and such period began or ended during the Spanish-American War.

(3)(A) Any veteran eligible for pension under this subsection shall, if such veteran so elects, be paid pension at the rates prescribed by section 1521 of this title (except the rate provided under subsection (g) of such section), and under the conditions (other than the service requirements) applicable to pension paid under that section to veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.

(B) The Secretary shall pay each month to each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (i) that provided by subparagraph (B) of subsection (a)(1) of this section, or (ii) that which is payable to the veteran under section 1521 of this title as in effect on December 31, 1978, under regulations which the Secretary shall prescribe. Each change in the amount of pension payment required by this subparagraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(b)(1) The Secretary shall pay to each veteran of the Spanish-American War who does not meet the service requirements of subsection (a), but who meets the service requirements of this subsection, a pension at the following monthly rate:

(A) $67.73; or

(B) $88.04 if the veteran is in need of regular aid and attendance.

(2) A veteran meets the service requirements of this subsection if such veteran served in the active military or naval service—

(A) for seventy days or more during the Spanish-American War; or

(B) for a period of seventy consecutive days or more and such period began or ended during the Spanish-American War.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1135, § 512; Pub. L. 86–670, § 2, July 14, 1960, 74 Stat. 545; Pub. L. 90–77, title I, § 111(b), Aug. 31, 1967, 81 Stat. 181; Pub. L. 94–169, title I, § 106(17), Dec. 23, 1975, 89 Stat. 1017; Pub. L. 95–588, title I, § 105, Nov. 4, 1978, 92 Stat. 2500; renumbered § 1512 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

A prior section 1512 was renumbered section 3112 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 512 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in introductory provisions.

Subsec. (a)(3)(A). Pub. L. 102–83, § 5(c)(1), substituted "1521" for "521".

Subsec. (a)(3)(B). Pub. L. 102–83, § 5(c)(1), substituted "1521" for "521".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Subsec. (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in introductory provisions.

1978—Subsec. (a)(3)(A). Pub. L. 95–588, § 105(1), inserted "(except the rate provided under subsection (g) of such section)" after "of this title", substituted "a period of war" for "World War I", and struck out exception to pension elections formerly provided pursuant to subpar. (B).

Subsec. (a)(3)(B). Pub. L. 95–588, § 105(2), substituted "as in effect on December 31, 1978, under regulations which the Administrator shall prescribe" for "if such veteran has elected, or would be payable if such veteran were to elect, to receive pension under such section pursuant to subparagraph (A) of this paragraph".

1975—Subsec. (a). Pub. L. 94–169 substituted "such veteran" for "he" wherever appearing.

Subsec. (b). Pub. L. 94–169 substituted "such veteran" for "he".

1967—Subsec. (a)(3). Pub. L. 90–77 designated existing provisions as subpar. (A), inserted "except as provided in subparagraph (B)", and added subpar. (B).

1960—Subsec. (a)(3). Pub. L. 86–670 added cl. (3).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86–670 effective first day of second calendar month which begins after July 14, 1960, see section 3 of Pub. L. 86–670, set out as a note under section 1511 of this title.

§ 1513. Veterans 65 years of age and older

(a) The Secretary shall pay to each veteran of a period of war who is 65 years of age or older and who meets the service requirements of section 1521 of this title (as prescribed in subsection (j) of that section) pension at the rates prescribed by 1521[1] of this title and under the conditions (other than the permanent and total disability requirement) applicable to pension paid under that section.

(b) If a veteran is eligible for pension under both this section and section 1521 of this title, pension shall be paid to the veteran only under section 1521 of this title.

(Added Pub. L. 107–103, title II, § 207(a)(1), Dec. 27, 2001, 115 Stat. 991.)

PRIOR PROVISIONS

Prior sections 1513 to 1520 were renumbered sections 3113 to 3120 of this title, respectively.

EFFECTIVE DATE

Pub. L. 107–103, title II, § 207(c), Dec. 27, 2001, 115 Stat. 991, provided that: "The amendments made by this sec-

[1] So in original. Probably should be preceded by "section".

tion [enacting this section and amending sections 1521 and 1522 of this title] shall take effect as of September 17, 2001.''

NON-SERVICE-CONNECTED DISABILITY PENSION

§ 1521. Veterans of a period of war

(a) The Secretary shall pay to each veteran of a period of war who meets the service requirements of this section (as prescribed in subsection (j) of this section) and who is permanently and totally disabled from non-service-connected disability not the result of the veteran's willful misconduct, pension at the rate prescribed by this section, as increased from time to time under section 5312 of this title.

(b) If the veteran is unmarried (or married but not living with or reasonably contributing to the support of such veteran's spouse) and there is no child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, and unless the veteran is entitled to pension at the rate provided by subsection (d)(1) or (e) of this section, pension shall be paid to the veteran at the annual rate of $3,550, reduced by the amount of the veteran's annual income.

(c) If the veteran is married and living with or reasonably contributing to the support of such veteran's spouse, or if there is a child of the veteran in the custody of the veteran or to whose support the veteran is reasonably contributing, pension shall be paid to the veteran at the annual rate of $4,651, unless the veteran is entitled to pension at the rate provided by subsection (d)(2), (e), or (f) of this section. If the veteran has two or more such family members, such annual rate shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

(d)(1) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $5,680, reduced by the amount of the veteran's annual income.

(2) If the veteran is in need of regular aid and attendance, the annual rate of pension payable to the veteran under subsection (c) of this section shall be $6,781. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the amount of annual income of such family members.

(e) If the veteran has a disability rated as permanent and total and (1) has additional disability or disabilities independently ratable at 60 per centum or more, or (2) by reason of a disability or disabilities, is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to the veteran under subsection (b) of this section shall be $4,340 and the annual rate of pension payable to the veteran under subsection (c) of this section shall be $5,441. If such veteran has two or more family members, as described in subsection (c) of this section, the annual rate of pension shall be increased by $600 for each such family member in excess of one. The rate payable shall be reduced by the amount of the veteran's annual income and, subject to subsection (h)(1) of this section, the annual income of such family members.

(f)(1) If two veterans are married to one another and each meets the disability and service requirements prescribed in subsections (a) and (j), respectively, of this section, or the age and service requirements prescribed in section 1513 of this title, the annual rate of pension payable to such veterans shall be a combined annual rate of $4,651.

(2) If either such veteran is in need of regular aid and attendance, the annual rate provided by paragraph (1) of this subsection shall be $6,781. If both such veterans are in need of regular aid and attendance, such rate shall be $8,911.

(3) If either such veteran would be entitled (if not married to a veteran) to pension at the rate provided by subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $5,441. If both such veterans would be entitled (if not married to one another) to such rate, such rate shall be $6,231.

(4) If one such veteran is in need of regular aid and attendance and the other would be entitled (if not married to a veteran) to the rate provided for under subsection (e) of this section, the annual rate provided by paragraph (1) of this subsection shall be $7,571.

(5) The annual rate provided by paragraph (1), (2), (3), or (4) of this subsection, as appropriate, shall (A) be increased by $600 for each child of such veterans (or of either such veteran) who is in the custody of either or both such veterans or to whose support either such veteran is, or both such veterans are, reasonably contributing, and (B) be reduced by the amount of the annual income of both such veterans and, subject to subsection (h)(1) of this section, the annual income of each such child.

(g) The annual rate of pension payable under subsection (b), (c), (d), (e), or (f) of this section to any veteran who is a veteran of a period of war shall be increased by $800 if veterans of such period of war were not provided educational benefits or home loan benefits similar to those provided to veterans of later periods of war under chapters 34 and 37, respectively, of this title or under prior corresponding provisions of law.

(h) For the purposes of this section:

(1) In determining the annual income of a veteran, if there is a child of the veteran who is in the custody of the veteran or to whose support the veteran is reasonably contributing, that portion of the annual income of the child that is reasonably available to or for the veteran shall be considered to be income of the veteran, unless in the judgment of the Secretary to do so would work a hardship on the veteran.

(2) A veteran shall be considered as living with a spouse, even though they reside apart, unless they are estranged.

(i) If the veteran is entitled under this section to pension on the basis of such veteran's own

service and is also entitled to pension on the basis of any other person's service, the Secretary shall pay such veteran only the greater benefit.

(j) A veteran meets the service requirements of this section if such veteran served in the active military, naval, or air service—

(1) for ninety days or more during a period of war;

(2) during a period of war and was discharged or released from such service for a service-connected disability;

(3) for a period of ninety consecutive days or more and such period began or ended during a period of war; or

(4) for an aggregate of ninety days or more in two or more separate periods of service during more than one period of war.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1136, § 521; Pub. L. 86–211, § 3(a), Aug. 29, 1959, 73 Stat. 433; Pub. L. 87–101, § 1, July 21, 1961, 75 Stat. 218; Pub. L. 88–664, §§ 3(a), (b), 5, 6(a), 7, Oct. 13, 1964, 78 Stat. 1094, 1095; Pub. L. 90–77, title I, § 104, title II, § 202(a)–(c), Aug. 31, 1967, 81 Stat. 179, 182; Pub. L. 90–275, § 1(a), (b), Mar. 28, 1968, 82 Stat. 64, 65; Pub. L. 91–588, §§ 1(a), (b), 3(b), 9(c), Dec. 24, 1970, 84 Stat. 1580, 1583, 1584; Pub. L. 92–198, §§ 1(a), (b), 5(b), Dec. 15, 1971, 85 Stat. 663, 664; Pub. L. 93–177, § 1(a), (b), Dec. 6, 1973, 87 Stat. 694; Pub. L. 93–527, § 2, Dec. 21, 1974, 88 Stat. 1702; Pub. L. 94–169, title I, §§ 102, 106(18), Dec. 23, 1975, 89 Stat. 1014, 1018; Pub. L. 94–432, title II, § 202, Sept. 30, 1976, 90 Stat. 1369; Pub. L. 95–204, title I, § 101, Dec. 2, 1977, 91 Stat. 1455; Pub. L. 95–588, title I, § 106(a), Nov. 4, 1978, 92 Stat. 2500; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1521 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 107–103, title II, § 207(b)(1), Dec. 27, 2001, 115 Stat. 991.)

PRIOR PROVISIONS

Prior section 1521 was renumbered section 3121 of this title.

AMENDMENTS

2001—Subsec. (f)(1). Pub. L. 107–103 inserted "or the age and service requirements prescribed in section 1513 of this title," after "of this section,".

1991—Pub. L. 102–83, § 5(a), renumbered section 521 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102–40 substituted "5312" for "3112".

Subsecs. (h)(1), (i). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1978—Subsec. (a). Pub. L. 95–588 revised pension eligibility requirements to speak in terms of a veteran of any period of war rather than veterans of specifically named wars and inserted reference to periodic pension increases pursuant to section 3112 of this title.

Subsec. (b). Pub. L. 95–588 qualified parental requirement of this subsection by inserting custody provision, substituted a fixed pension amount of $3,550 for a formula for determining such annual pension based upon the annual income of the veteran, and struck out monthly minimum and maximum pension payments.

Subsec. (c). Pub. L. 95–588 qualified parental requirement of this subsection by inserting custody provision, substituted a fixed pension amount of $4,651 for a formula for determining such annual pension based upon annual income of the veteran, and inserted provision authorizing an annual pension rate increase of $600 for each family member of the eligible veteran in excess of one.

Subsec. (d). Pub. L. 95–588 substituted $5,680 as annual rate of pension payable to a veteran in need of regular aid and attendance under subsec. (b) of this section and $6,781 as such rate payable to such veteran under subsec. (c) of this section for provision authorizing a rate increase of $165 over and above the rate of pension payable under the applicable subsection in order to determine the rate payable to eligible veterans under this section and revised the method of reducing payments under this section by use of the recipient's annual income.

Subsec. (e). Pub. L. 95–588 substituted $4,340 as annual rate of pension payable under subsec. (b) of this section for veterans eligible as recipients under this section and $5,441 as such annual rate under subsec. (c) of this section for provision authorizing rate increases of $61 per month for eligible veterans over and above the appropriate rate of pension payment under the applicable subsection, inserted provision authorizing increases of $600 per year in pension rates for recipients with eligible family members in excess of one, and provided for an annual income reduction in the pension rate payable.

Subsec. (f). Pub. L. 95–588 substituted provisions relating to pension payments to veterans married to each other for provisions authorizing the inclusion of a spouse's annual income reasonably available to an eligible veteran in the computation of the annual income of an eligible veteran.

Subsec. (g). Pub. L. 95–588 substituted provisions authorizing annual pension payment rate increases of $800 per year for eligible veterans who served in periods of war which did not entitle them to educational or home loan benefits similar to those paid veterans of subsequent periods of war for provisions specifying the eligibility service requirements of this section.

Subsec. (h). Pub. L. 95–588 substituted provisions authorizing inclusion of income of a dependent child in custody of recipient veteran in computing annual income of such veteran and authorizing consideration of a veteran and his or her spouse as living together, even though they actually live apart, for provisions authorizing a twenty-five per cent rate increase in pension payments to a veteran who has attained age seventy-eight.

Subsecs. (i), (j). Pub. L. 95–588 added subsecs. (i) and (j).

1977—Subsec. (b)(1). Pub. L. 95–204, § 101(1), increased monthly rate of pension from $185 to $197, and substituted "1,100" for "1,500" in two places, "1,700" for "1,800" in two places, and "3,770" for "3,540".

Subsec. (b)(3). Pub. L. 95–204, § 101(2), substituted "$3,770" for "$3,540".

Subsec. (c)(1). Pub. L. 95–204, § 101(3), increased monthly rates of pension from $199 to $212, $204 to $217, and $209 to $222, and substituted "1,000" for "1,100" in two places, "2,000" for "2,400" in two places, "3,000" for "3,100" in two places, "3,200" for "3,500" in two places, "3,600" for "3,700" in two places and "5,070" for "4,760".

Subsec. (c)(3). Pub. L. 95–204, § 101(4), substituted "$5,070" for "$4,760".

Subsec. (d). Pub. L. 95–204, § 101(5), substituted "$165" for "$155" in pars. (1) and (2).

Subsec. (e). Pub. L. 95–204, § 101(6), substituted "$61" for "$57".

1976—Subsec. (b)(1). Pub. L. 94–432, § 202(1), increased monthly rate of pension from $173 to $185 and substituted $700 to $900 for $700 to $1,200, $900 to $1,500 for $1,200 to $1,700, $1,500 to $1,800 for $1,700 to $2,000, and $1,800 to $3,540 for $2,000 to $3,300.

Subsec. (b)(3). Pub. L. 94–432, § 202(2), substituted "$3,540" for "$3,300".

Subsec. (c)(1). Pub. L. 94–432, § 202(3), increased monthly rate of pension by $13 from $186 to $199, from $191 to $204, and from $196 to $209, of a veteran with 1, 2, and 3 dependents, substituting "he or she" for "such veteran" in three places, substituted $700 to $1100 for $700 to $1,300, $1,100 to $2,400 for $1,300 to $2,800, $2,400 to $3,100 for $2,800 to $3,200, $3,100 to $3,500 for $3,200 to $3,800, and $3,700 to $4,760 for $3,800 to $4,500, and inserted ".07" ranging from $3,500 to $3,700.

Subsec. (c)(3). Pub. L. 94–432, § 202(4), substituted ''$4,760'' for ''$4,500''.

Subsec. (d). Pub. L. 94–432, § 202(5), designated existing provisions as par. (1), substituted ''$155'' for ''$133'' and added par. (2).

Subsec. (e). Pub. L. 94–432, § 202(6), substituted ''$57'' for ''$53''.

Subsec. (h). Pub. L. 94–432, § 202(7), added subsec. (h).

1975—Subsec. (b). Pub. L. 94–169, § 102(1), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, monthly rate of pension from $160 to $173, substituted $500 to $700 for $500 to $900, $700 to $1200 for $900 to $1500, $1200 to $1700 for $1500 to $1900, $1700 to $2000 for $1900 to $2300, $2000 to $3300 for $2300 to $3000 the minimum and maximum income ranges for which the pension rate will be reduced by 4, 5, 6, 7 and 8 cents per dollar, respectively, and increased from $3000 to $3300 the maximum income in excess of which no pension shall be paid.

Subsec. (c). Pub. L. 94–169, § 102(1), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, from $172 to $186, from $177 to $191 and from $182 to $196 the rate of pension of a veteran with 1, 2 and 3 dependents, respectively, substituted $700 to $1300 for $700 to $1800, $1300 to $2800 for $1800 to $3000, $2800 to $3200 for $3000 to $3500, $3200 to $3800 for $3500 to $3800, and $3800 to $4500 for $4000 to $4200 the minimum and maximum income ranges for which the pension rate will be reduced by 3, 4, 5, 6 and 8 cents per dollar, respectively, struck out the income range of $3800 to $4000 for which the reduction rate is 7 cents per dollar, increased from $4200 to $4500 the income in excess of which no pension shall be paid, and inserted provision that in no case may the amount of pension be less than $5 monthly.

Subsec. (d). Pub. L. 94–169, § 102(2), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''such veteran'' for ''him'' and ''$133'' for ''$123''.

Subsec. (e). Pub. L. 94–169, § 102(3), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''such veteran's'' for ''his'', ''such veteran'' for ''him'' and ''$53'' for ''$49''.

Subsec. (g). Pub. L. 94–169, § 106(18), substituted ''such veteran'' for ''he''.

1974—Subsec. (b). Pub. L. 93–527, § 2(1), substituted ''$160'' for ''$143'', ''$500'' for ''$800'' wherever appearing, ''$900'' for ''$1300'' wherever appearing, ''$1500'' for ''$1600'' wherever appearing, ''$1900'' for ''$2200'' wherever appearing, ''$2300'' for ''$2500'' wherever appearing, and ''$3000'' for ''$2600'' wherever appearing, and inserted provision that in no event should monthly rate of pension be less than $5.00.

Subsec. (c). Pub. L. 93–527, § 2(2), substituted ''$172'' for ''$154'', ''$177'' for ''$159'', ''$182'' for ''$164'', ''$700'' for ''$800'' wherever appearing, ''$1800'' for ''$2600'' wherever appearing, ''$3000'' for ''$3200'' wherever appearing, ''$3500'' for ''$3700'' wherever appearing, and inserted provisions for the reduction by 7 cents for each dollar of annual income in excess of $3800 up to and including $4000, and reduction by 8 cents for each dollar of annual income in excess of $4000 up to and including $4200, and raised maximum income from $3800 to $4200.

Subsec. (d). Pub. L. 93–527, § 2(3), substituted ''$123'' for ''$110''.

Subsec. (e). Pub. L. 93–527, § 2(4), substituted ''$49'' for ''$44''.

1973—Subsec. (b). Pub. L. 93–177, § 1(a), substituted ''$143'' for ''$130'', ''$800'' for ''$1,000'', ''$1,300'' for ''$1,500'', ''$1,600'' for ''$1,800'', and ''$2,500'' for ''$2,600'' in existing provisions and inserted provision for a reduction of 8 cents in monthly rate for each $1 of annual income in excess of $2,500 up to and including $2,600.

Subsec. (c). Pub. L. 93–177, § 1(b), substituted ''$154'' for ''$140'', ''$159'' for ''$145'', ''$164'' for ''$150'', ''$800'' for ''$900'', ''$2,600'' for ''$3,200'', and ''$3,700'' for ''$3,800'' in existing provisions and inserted provisions for a reduction of 4 cents in monthly rate for each $1 of annual income in excess of $2,600 up to and including $3,200 and for a reduction of 6 cents in monthly rate for each $1 of annual income in excess of $3,700 up to and including $3,800.

1971—Subsec. (b). Pub. L. 92–198, § 1(a), substituted formula for computing monthly pension rates of single veteran providing for a maximum monthly pension for each group within designated income category and for computing each individual's monthly benefit rate by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out the income and pension rates, and raised the maximum income from $2300 to $2600.

Subsec. (c). Pub. L. 92–198, § 1(b), substituted formula for computing monthly pension rates of veteran with dependents by providing for maximum monthly pension for each group within designated income category depending on the number of dependents and for computing each individual's monthly benefit rate by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out the income and pension rates, and raised the maximum income limit from $3500 to $3800.

Subsec. (g)(3). Pub. L. 92–198, § 5(b), inserted reference to Mexican border period.

1970—Pub. L. 91–588, § 9(c)(3), inserted reference to Mexican border period in section catchline.

Subsec. (a). Pub. L. 91–588, § 9(c)(1), inserted reference to Mexican border period.

Subsec. (b). Pub. L. 91–588, § 1(a), provided new annual income limits to measure monthly pension rates of single veteran by adding minimum income limits of $2,000, $2,100 and $2,200 with maximum limits of $2,100, $2,200 and $2,300 for monthly benefits of $45, $37 and $29, respectively, and within existing annual income limits from a maximum of $300 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively by substituting in column II ''121'' for ''$110'', ''119'' for ''108'', ''117'' for ''106'', ''115'' for ''104'', ''112'' for ''100'', ''108'' for ''96'', ''104'' for ''92'', ''100'' for ''88'', ''96'' for ''84'', ''92'' for ''79'', ''88'' for ''75'', ''84'' for ''69'' ''79'' for ''63'' ''75'' for ''57'', ''69'' for ''51'', ''63'' for ''45'', ''57'' for ''37'', and ''51'' for ''29''.

Subsec. (c). Pub. L. 91–588, § 1(b), provided new annual income limits to measure monthly pension rates of veteran with dependents by adding minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $50, and within existing annual income limits from a maximum of $500 to a maximum of $3,200, as well as in-between limits set out in one-hundred dollar increments, the applicable monthly benefits for each limit was amended, respectively, by substituting in column II (one dependent) ''$132'' for ''$120'', ''130'' for ''118'', ''128'' for ''116'', ''126'' for ''114'', ''124'' for ''112'', ''122'' for ''109'', in column III (two dependents) ''$137'' for ''$125'', ''135'' for ''123, ''133'' for ''121'', ''131'' for ''119'', ''129'' for ''117'', ''127'' for ''114'', in column IV (three or more dependents) ''$142'' for ''$130'', ''140'' for ''128'', ''138'' for ''126'', ''136'' for ''124'', ''134'' for ''122'', ''132'' for ''119'', and in columns II, III, and IV (for any number of dependents) ''119'' for ''107'', ''116'' for ''105'', ''113'' for ''103'', ''110'' for ''101'', ''107'' for ''99'', ''104'' for ''96'', ''101'' for ''93'' ''99'' for ''90'', ''96'' for ''87'', ''93'' for ''84'', ''90'' for ''81'', ''87'' for ''78'', ''84'' for ''75'', ''81'' for ''72'', ''78'' for ''69'', ''75'' for ''66'', ''72'' for ''62'', ''69'' for ''58'', ''66'' for ''54'', ''62'' for ''50'', ''58'' for ''42'', and ''54'' for ''34''.

Subsec. (d). Pub. L. 91–588, § 3(b)(1), substituted ''$110'' for ''$100''.

Subsec. (e). Pub. L. 91–588, § 3(b)(2), substituted ''44'' for ''$40''.

Subsec. (g)(1), (2). Pub. L. 91–588, § 9(c)(2), inserted reference to Mexican border period.

1968—Subsec. (b). Pub. L. 90–275, § 1(a), in providing new annual income limits to measure monthly pension rates of single veteran, substituted minimum income limit of $300 for monthly benefit of $110 for former $600

limit for monthly benefit of $104, maximum income limit of $2,000 for monthly benefit of $29 for former $1,800 limit for monthly benefit of $45, and sixteen other in-between limits in one hundred dollar increments from more than $300 to less than $1,900 for monthly benefits of $108–37 for former in-between limit of more than $600 but less than $1,200 for monthly benefit of $79.

Subsec. (c). Pub. L. 90–275, § 1(b), in providing new annual income limits to measure monthly pension rates of veteran with dependents, substituted minimum income limit of $500 for monthly benefit of $120 (one dependent), $125 (two dependents), and $130 (three or more dependents) for former $1,000 limit for monthly benefit of $109 (one dependent), $114 (two dependents), and $119 (three or more dependents), maximum income limit of $3,200 for monthly benefit of $34 (for any number of dependents) for former $3,000 limit for monthly benefit of $50 (for any number of dependents), and twenty-six other in-between limits in one hundred dollar increments from more than $500 to less than $3,100 for monthly benefits of $118 to 42 (one dependent), $123 to 42 (two dependents), and $128 to 42 (three or more dependents) for former in-between limit of more than $1,000 but less than $2,000 for monthly benefit of $84 (for any number of dependents).

1967—Pub. L. 90–77, § 202(c), inserted reference to Vietnam era in section catchline.

Subsec. (a). Pub. L. 90–77, § 202(a), inserted reference to Vietnam era.

Subsec. (b). Pub. L. 90–77, § 104(a), increased monthly pension rate in column II from $100, $75, and $43 to $104, $79,and $45 respectively.

Subsec. (c). Pub. L. 90–77, § 104(b), increased monthly pension rate in column II from $105, $80, and $48 to $109, $84, and $50; column III from $110, $80, and $48 to $114, $84, and $50; and column IV from $115, $80, and $48 to $119, $84, and $50, respectively.

Subsec. (e). Pub. L. 90–77, § 104(c), substituted ''$40'' for ''$35''.

Subsec. (g). Pub. L. 90–77, § 202(b), inserted references to Vietnam era in pars. (1) to (3).

1964—Subsec. (b). Pub. L. 88–664, § 3(a), increased monthly pension rate in column II from $85, $70, and $40 to $100, $75, and $43, respectively.

Subsec. (c). Pub. L. 88–664, § 3(b), increased monthly pension rate in column II from $90, $75, and $45 to $105, $80, and $48; column III from $95, $75, and $45 to $110, $80, and $48; and column IV from $100, $75, and $45 to $115, $80, and $48, respectively.

Subsec. (d). Pub. L. 88–664, § 5, increased additional monthly rate of veterans in need of aid and attendance from $70 to $100.

Subsecs. (e), (f). Pub. L. 88–664, §§ 6(a), 7, added subsec. (e), redesignated former subsec. (e) as (f) and substituted ''in excess of whichever is the greater, $1,200 or the total earned income of the spouse,'' for ''except $1,200 of such income'' in par. (1). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 88–664, § 6(a), redesignated former subsec. (f) as (g).

1961—Subsec. (f)(4). Pub. L. 87–101 added par. (4).

1959—Subsec. (a). Pub. L. 86–211, § 3(a)(2), struck out provisions that prescribed amount of monthly pension payable. See subsecs. (b) to (d) of this section.

Subsecs. (b) to (e). Pub. L. 86–211, § 3(a)(3), added subsecs. (b) to (e). Former subsec. (b) redesignated (f).

Subsec. (f). Pub. L. 86–211, § 3(a)(1), redesignated former subsec. (b) as (f).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Sept. 17, 2001, see section 207(c) of Pub. L. 107–103, set out as an Effective Date note under section 1513 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–204 effective Jan. 1, 1978, see section 302 of Pub. L. 95–204, set out as a note under section 1122 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 405 of Pub. L. 94–432 provided that:

''(a) The provisions of this Act [see Tables for classification], other than titles II and III and section 401, shall take effect on the date of the enactment of this Act [Sept. 30, 1976].

''(b) Titles II and III [see Tables for classification] and section 401 of this Act [amending section 322 [now 1122] of this title] shall take effect January 1, 1977.''

EFFECTIVE DATE OF 1975 AMENDMENT

Section 102 of Pub. L. 94–169, as amended by section 101 of Pub. L. 94–432, eff. Sept. 30, 1976, provided that the amendment made by that section is effective Jan. 1, 1976.

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10 of Pub. L. 93–527 provided that: ''This Act [see Tables for classification] shall take effect on January 1, 1975.''

EFFECTIVE DATE OF 1973 AMENDMENT

Section 8 of Pub. L. 93–177 provided that: ''This Act [see Tables for classification] shall take effect on January 1, 1974.''

EFFECTIVE DATE OF 1971 AMENDMENT

Section 6 of Pub. L. 92–198 provided that: ''This Act [see Tables for classification] shall take effect on January 1, 1972.''

EFFECTIVE DATE OF 1970 AMENDMENT

Section 10 of Pub. L. 91–588 provided that:

''(a) Sections 1, 2(a), (b), and (c), 3, 4, 5, 6, 7, 8, and 9 [see Tables for classification] shall take effect on January 1, 1971.

''(b) Sections 2(d) and 6 [amending sections 415 and 506 [now 1315 and 1506] of this title] shall take effect on January 1, 1972.''

[In view of the similarity of subject matter covered by amendments made by sections 2(d) and 6 of Pub. L. 91–588, the effective date for the amendment made by section 6 was probably intended by Congress to be Jan. 1, 1972, as called for in subsec. (b) of section 10 of Pub. L. 91–588, rather than Jan. 1, 1971, as called for in subsec. (a) of that section.]

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of Pub. L. 90–275 provided that:

''(a) The first section and sections 2 and 4 of this Act [amending this section and sections 415 and 541 [now 1315 and 1541] of this title and enacting provisions set out below] shall take effect on January 1, 1969.

''(b) Sections 3 and 5 of this Act [enacting provisions set out below and amending section 3012 [now 5112] of this title] shall take effect on the first day of the first calendar month following the month of initial payment of increases in monthly insurance benefits provided by the Social Security Amendments of 1967 [see Short Title note under section 302 of Title 42, the Public Health and Welfare].''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 and provisions of section 10 of Pub. L. 88–664, set out as a note below, effec-

tive Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87–101 provided that: ''Pension shall not be paid for any period prior to the effective date of this Act [July 21, 1961] to any person whose eligibility for pension is established solely by virtue of this Act [amending this section].''

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as an Effective Date note under section 1506 of this title.

SAVINGS PROVISION FOR PERSONS ENTITLED TO PENSION AS OF DECEMBER 31, 1978; OTHER PROVISIONS

Section 306 of Pub. L. 95–588, as amended by Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, §§ 5(c)(2), 6(c), Aug. 6, 1991, 105 Stat. 406, 407, provided that:

''(a)(1)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 1521, 1541, or 1542 [formerly 521, 541, or 542] of title 38, United States Code, may elect to receive pension under such section as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Secretary of Veterans Affairs (hereinafter in this section referred to as the 'Secretary') may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

''(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

''(2) Any person eligible to make an election under paragraph (1) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 1521, 1541, or 1542 [formerly 521, 541, or 542], as appropriate, of title 38, United States Code, as in effect on December 31, 1978, except that—

''(A) pension may not be paid to such person if such person's annual income (determined in accordance with section 1503 [formerly 503] of title 38, United States Code, as in effect on December 31, 1978) exceeds $4,038, in the case of a veteran or surviving spouse without dependents, $5,430, in the case of a veteran or surviving spouse with one or more dependents, or $3,299, in the case of a child; and

''(B) the amount prescribed in subsection (f)(1) of section 1521 [formerly 521] of such title (as in effect on December 31, 1978) shall be $1,285;

as each such amount is increased from time to time under paragraph (3).

''(3) Whenever there is an increase under section 5312 [formerly 3112] of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 1521, 1541, and 1542 [formerly 521, 541, and 542] of such title, as in effect after December 31, 1978, the Secretary shall, effective on the date of such increase under such section 5312 [formerly 3112], increase—

''(A) the annual income limitations in effect under paragraph (2); and

''(B) the amount of income of a veteran's spouse excluded from the annual income of such veteran under section 1521(f)(1) [formerly 521(f)(1)] of such title, as in effect on December 31, 1978;

by the same percentage as the percentage by which such maximum annual rates under such sections 1521, 1541, and 1542 [formerly 521, 541, and 542] are increased.

''(b)(1) [Subsec. (b)(1) which provided for the repeal, effective Jan. 1, 1979, of section 9 of the Veterans' Pension Act of 1959, Pub. L. 86–211, § 9, Aug. 29, 1959, 73 Stat. 436, has been executed to note set out under this section.]

''(2)(A) Except as provided in subparagraph (B), any person who as of December 31, 1978, is entitled to receive pension under section 9(b) of the Veterans' Pension Act of 1959 Pub. L. 86–211, § 9, Aug. 29, 1959, 73 Stat. 436 [formerly set out as a note under this section] may elect to receive pension under section 1521, 1541, or 1542 [formerly 521, 541, or 542] of title 38, United States Code, as in effect after such date, subject to the terms and conditions in effect with respect to the receipt of such pension. Any such election shall be made in such form and manner as the Secretary may prescribe. If pension is paid pursuant to such an election, the election shall be irrevocable.

''(B) Any veteran eligible to make an election under subparagraph (A) who is married to another veteran who is also eligible to make such an election may not make such an election unless both such veterans make such an election.

''(3) Any person eligible to make an election under paragraph (2) who does not make such an election shall continue to receive pension at the monthly rate being paid to such person on December 31, 1978, subject to all provisions of law applicable to basic eligibility for and payment of pension under section 9(b) of the Veterans' Pension Act of 1959 Pub. L. 86–211, § 9(b), Aug. 29, 1959, 73 Stat. 436 [formerly set out below], as in effect on December 31, 1978, except that pension may not be paid to such person if such person's annual income (determined in accordance with the applicable provisions of law, as in effect on December 31, 1978) exceeds $3,534, in the case of a veteran or surviving spouse without dependents or in the case of a child, or $5,098, in the case of a veteran or surviving spouse with one or more dependents, as each such amount is increased from time to time under paragraph (4).

''(4) Whenever there is an increase under section 5312 [formerly 3112] of title 38, United States Code (as added by section 304 of this Act), in the maximum annual rates of pension under sections 1521, 1541, and 1542 [formerly 521, 541, and 542] of such title, as in effect after December 31, 1978, the Secretary shall, effective on the date of such increase under such section 5312 [formerly 3112], increase the annual income limitations in effect under paragraph (3) by the same percentage as the percentage by which the maximum annual rates under such sections 1521, 1542, and 1543 [formerly 521, 542, and 543] are increased.

''(c) Any case in which—

''(1) a claim for pension is pending in the Veterans' Administration on December 31, 1978;

''(2) a claim for pension is filed by a veteran after December 31, 1978, and within one year after the date on which such veteran became totally and permanently disabled, if such veteran became totally and permanently disabled before January 1, 1979; or

''(3) a claim for pension is filed by a surviving spouse or by a child after December 31, 1978, and within one year after the date of death of the veteran through whose relationship such claim is made, if the death of such veteran occurred before January 1, 1979;

shall be adjudicated under title 38, United States Code, as in effect on December 31, 1978. Any benefits determined to be payable as the result of the adjudication of such a claim shall be subject to the provisions of subsection (a).

''(d) In any case in which any person who as of December 31, 1978, is entitled to receive pension under section 1521, 1541, or 1542 [formerly 521, 541, or 542] of title 38, United States Code, or under section 9(b) of the Veterans' Pension Act of 1959 Pub. L. 86–211, 6, 9(b), Aug. 29, 1959, 73 Stat. 436 [formerly set out as a note under this section], elects (in accordance with subsection (a)(1) or (b)(2), as appropriate) before October 1, 1979, to receive pension under such section as in effect after December 31, 1978, the Administrator of Veterans' Affairs shall pay to such person an amount equal to the amount by which the amount of pension benefits such person

would have received had such election been made on January 1, 1979, exceeds the amount of pension benefits actually paid to such person for the period beginning on January 1, 1979, and ending on the date preceding the date of such election.

''(e) Whenever there is an increase under subsections (a)(3) and (b)(4) in the annual income limitations with respect to persons being paid pension under subsections (a)(2) and (b)(3), the Secretary shall publish such annual income limitations, as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act [section 415(i)(2)(D) of Title 42, The Public Health and Welfare] is published by reason of a determination under section 215(i) of such Act.''

SAVINGS PROVISION

Section 9 of Pub. L. 86–211, which provided (1) that any claim for pension which was pending on June 30, 1960, or any claim for death pension filed thereafter within one year from the date of death of a veteran which occurred prior to July 1, 1960, would be adjudicated under this title in effect on June 30, 1960, with respect to the period before July 1, 1960, and, except as provided below, under this title, as amended by Pub. L. 86–211, thereafter; (2) that nothing in Pub. L. 86–211 would affect the eligibility of any person receiving pension under this title on June 30, 1960, for pension under all applicable provisions of this title in effect on that date for such period or periods thereafter with respect to which he could qualify under such provisions and that this provision would not apply in any case for any period after pension was granted, pursuant to application, under this title as amended by Pub. L. 86–211; and (3) that provision (2) would not apply to those claims within the purview of provision (1) in which it was determined that pension was payable for June 30, 1960, was repealed, effective Jan. 1, 1979, by section 306(b)(1) of Pub. L. 95–588, set out as a note above.

INCREASE IN AID AND ATTENDANCE RATES FOR VETERANS ELIGIBLE FOR PENSION

Pub. L. 105–178, title VIII, § 8206, June 9, 1998, 112 Stat. 494, provided that: ''Effective October 1, 1998, the maximum annual rates of pension in effect as of September 30, 1998, under the following provisions of chapter 15 of title 38, United States Code, are increased by $600:

''(1) Subsections (d)(1), (d)(2), (f)(2), and (f)(4) of section 1521.

''(2) Section 1536(d)(2).''

REPORT TO CONGRESSIONAL COMMITTEES; MEDICAL EXAMINATIONS OF CERTAIN PENSION RECIPIENTS

Pub. L. 98–543, title III, § 302, Oct. 24, 1984, 98 Stat. 2747, directed Administrator of Veterans' Affairs to report to Committees on Veterans' Affairs of House of Representatives and Senate not later than 28 months after Oct. 24, 1984, on results of medical examinations conducted on certain individuals awarded pensions under this section as permanently and totally disabled by reason of being 65 years of age or older or becoming unemployable after age 65.

STUDY OF PENSION BENEFITS PAID TO PERSONS RESIDING OUTSIDE UNITED STATES; TRANSMITTAL OF REPORT AND RECOMMENDATIONS TO PRESIDENT AND CONGRESS

Pub. L. 95–588, title III, § 308, Nov. 4, 1978, 92 Stat. 2510, directed Administrator of Veterans' Affairs, in consultation with Secretary of State, to carry out a comprehensive study of income characteristics of veterans of a period of war, as defined in section 101(11) of this title, and their survivors residing outside the fifty States and the District of Columbia, required submission of a report to Congress and President on results of such study not later than Feb. 1, 1980.

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Section 3 of Pub. L. 90–275 provided that:

''(a) If the monthly rate of pension or dependency and indemnity compensation payable to a person under title 38, United States Code, would be less, solely as a result of an increase in monthly insurance benefits provided by the Social Security Amendments of 1967 [see Short Title note set out under section 302 of Title 42, The Public Health and Welfare], than the monthly rate payable for the month immediately preceding the effective date of this Act [see Effective Date of 1968 Amendment note set out above], the Administrator of Veterans' Affairs shall pay the person as follows:

''(1) for the balance of calendar year 1968 and during calendar year 1969, at the prior monthly rate;

''(2) during the calendar year 1970, at the rate for the next $100 annual income limitation higher than the maximum annual income limitation corresponding to the prior monthly rate; and

''(3) during each successive calendar year, at the rate for the next $100 annual income limitation higher than the one applied for the preceding year, until the rate corresponding to actual countable income is reached.

''(b) Subsection (a) shall not apply for any period during which annual income of such person, exclusive of an increase in monthly insurance benefits provided by the Social Security Amendments of 1967 [see Short Title note set out under section 302 of Title 42], exceeds the amount of annual income upon which was based the pension or dependency and indemnity compensation payable to the person immediately prior to receipt of the increase.''

[Provisions of section 3 of Pub. L. 90–275 effective on first day of first calendar month following month of initial payment of increases in monthly insurance benefits provided by Social Security Amendments of 1967 [see Short Title note set out under section 302 of Title 42], see section 6(b) of Pub. L. 90–275, set out as an Effective Date of 1968 Amendment note above.]

INCOME RESTRICTIONS ON PENSIONS; EFFECTIVE DATES

Section 4 of Pub. L. 90–275, as amended by Pub. L. 91–588, § 5; Pub. L. 92–198, § 4; Pub. L. 93–527, § 6; Pub. L. 94–169, § 107; Pub. L. 94–432, § 206; Pub. L. 95–204, § 105, provided that: ''The income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [formerly set out in a Savings Provision note above] hereafter shall be $3,300 and $4,760 instead of $3,100 and $4,460, respectively.''

Section 4 of Pub. L. 90–275, as originally enacted, was eff. Jan. 1, 1969, pursuant to Pub. L. 90–275, § 6(a). Subsequent amendments to said section 4 by Pub. L. 91–588, Pub. L. 92–198, and Pub. L. 94–169 were effective Jan. 1, 1971, Jan. 1, 1972, and for a period beginning Jan. 1, 1976 and ending Sept. 30, 1976, respectively. Pub. L. 94–432, §§ 101, 405(b) amended said section 4 of Pub. L. 90–275 and section 107 of Pub. L. 94–169 to be effective Jan. 1, 1976 and Jan. 1, 1977, respectively. Pub. L. 95–204, § 302 amended said section 4 of Pub. L. 90–275 to be effective Jan. 1, 1978.

AID AND ATTENDANCE ALLOWANCE FOR WIDOWS OF VETERANS OF ALL PERIODS OF WAR

Pub. L. 90–77, title I, § 108(c), Aug. 31, 1967, 81 Stat. 180, provided that: ''If any widow is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [formerly set out in a Savings Provision note above] and is in need of regular aid and attendance, the monthly rate of pension payable to her shall be increased by $50.''

PENSION FOR HOUSEBOUND VETERANS

Pub. L. 90–77, title I, § 110, Aug. 31, 1967, 81 Stat. 180, provided that: ''The Administrator of Veterans' Affairs shall pay to a veteran who is entitled to pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [formerly set out in a Savings Provision note above] and who—

''(1) has, in addition to a disability rated as permanent and total, additional disability or disabilities independently ratable at 60 per centum or more, or

''(2) by reason of his disability or disabilities, is permanently housebound but does not qualify for pension based on need of regular aid and attendance, in lieu of the pension otherwise payable to him, a pension at the monthly rate of $100.''

RETIREMENT INCOME EXCLUSION

Section 10 of Pub. L. 88–664 provided that: ''In computing the income of persons whose pension eligibility is subject to the first sentence of section 9(b) of the Veterans' Pension Act of 1959 [formerly set out in a Savings Provision note above] there shall be excluded 10 per centum of the amount of payments received under public or private retirement, annuity, endowment or similar plans or programs.''

§ 1522. Net worth limitation

(a) The Secretary shall deny or discontinue the payment of pension to a veteran under section 1513 or 1521 of this title when the corpus of the estate of the veteran or, if the veteran has a spouse, the corpus of the estates of the veteran and of the veteran's spouse is such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance.

(b) The Secretary shall deny or discontinue the payment of increased pension under subsection (c), (d), (e), or (f) of section 1521 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the veteran's and spouse's income, and the income of the veteran's children, it is reasonable that some part of the corpus of such child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the veteran's child for purposes of this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1136, § 522; Pub. L. 86–211, § 3(b), Aug. 29, 1959, 73 Stat. 434; Pub. L. 95–588, title I, § 107, Nov. 4, 1978, 92 Stat. 2502; renumbered § 1522 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 107–103, title II, § 207(b)(2), Dec. 27, 2001, 115 Stat. 991.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–103 inserted ''1513 or'' before ''1521 of this title''.

1991—Pub. L. 102–83, § 5(a), renumbered section 522 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1521'' for ''521'' in subsecs. (a) and (b).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in subsecs. (a) and (b).

1978—Pub. L. 95–588 designated existing provisions as subsec. (a), inserted provisions relating to consideration of the income and estates of the spouse and children of an eligible veteran, and added subsec. (b).

1959—Pub. L. 86–211 substituted provisions requiring the denial or discontinuance of payment of pension when the corpus of the veteran's estate is such that under all the circumstances, including consideration of the veteran's income, it is reasonable that some part of the corpus be consumed for the veteran's maintenance for provisions which prohibited the payment of a pension to any unmarried veteran whose annual income exceeds $1,400 or to any married veteran or any veteran with children whose annual income exceeds $2,700.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Sept. 17, 2001, see section 207(c) of Pub. L. 107–103, set out as an Effective Date note under section 1513 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as an Effective Date note under section 1521 of this title.

§ 1523. Combination of ratings

(a) The Secretary shall provide that, for the purpose of determining whether or not a veteran is permanently and totally disabled, ratings for service-connected disabilities may be combined with ratings for non-service-connected disabilities.

(b) Where a veteran, by virtue of subsection (a), is found to be entitled to a pension under section 1521 of this title, and is entitled to compensation for a service-connected disability, the Secretary shall pay such veteran the greater benefit.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1136, § 523; Pub. L. 94–169, title I, § 106(19), Dec. 23, 1975, 89 Stat. 1018; renumbered § 1523 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 523 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1521'' for ''521''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1975—Subsec. (b). Pub. L. 94–169 substituted ''such veteran'' for ''him''.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

§ 1524. Vocational training for certain pension recipients

(a)(1) In the case of a veteran under age 45 who is awarded a pension during the program period, the Secretary shall, based on information on file with the Department of Veterans Affairs, make a preliminary finding whether such veteran, with the assistance of a vocational training program under this section, has a good potential for achieving employment. If such potential is found to exist, the Secretary shall solicit from the veteran an application for vocational training under this section. If the veteran thereafter applies for such training, the Secretary shall provide the veteran with an evaluation, which may include a personal interview, to determine whether the achievement of a vocational goal is reasonably feasible.

(2) If a veteran who is 45 years of age or older and is awarded pension during the program period, or a veteran who was awarded pension before the beginning of the program period, applies

for vocational training under this section and the Secretary makes a preliminary finding on the basis of information in the application that, with the assistance of a vocational training program under subsection (b) of this section, the veteran has a good potential for achieving employment, the Secretary shall provide the veteran with an evaluation in order to determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Any such evaluation shall include a personal interview by a Department employee trained in vocational counseling.

(3) For the purposes of this section, the term ''program period'' means the period beginning on February 1, 1985, and ending on December 31, 1995.

(b)(1) If the Secretary, based upon an evaluation under subsection (a) of this section, determines that the achievement of a vocational goal by a veteran is reasonably feasible, the veteran shall be offered and may elect to pursue a vocational training program under this subsection. If the veteran elects to pursue such a program, the program shall be designed in consultation with the veteran in order to meet the veteran's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation of the kind described in section 3107 of this title.

(2)(A) Subject to subparagraph (B) of this paragraph, a vocational training program under this subsection shall consist of vocationally oriented services and assistance of the kind provided under chapter 31 of this title and such other services and assistance of the kind provided under that chapter as are necessary to enable the veteran to prepare for and participate in vocational training or employment.

(B) A vocational training program under this subsection—

(i) may not exceed 24 months unless, based on a determination by the Secretary that an extension is necessary in order for the veteran to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan formulated for the veteran, the Secretary grants an extension for a period not to exceed 24 months;

(ii) may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment of the kind provided under chapter 39 of this title; and

(iii) may include a program of education at an institution of higher learning (as defined in sections 3452(b) and 3452(f), respectively, of this title) only in a case in which the Secretary determines that the program involved is predominantly vocational in content.

(3) When a veteran completes a vocational training program under this subsection, the Secretary may provide the veteran with counseling of the kind described in section 3104(a)(2) of this title, placement and postplacement services of the kind described in section 3104(a)(5) of this title, and training of the kind described in section 3104(a)(6) of this title during a period not to exceed 18 months beginning on the date of such completion.

(4) A veteran may not begin pursuit of a vocational training program under this subsection after the later of (A) December 31, 1995, or (B) the end of a reasonable period of time, as determined by the Secretary, following either the evaluation of the veteran under subsection (a) of this section or the award of pension to the veteran as described in subsection (a)(2) of this section. Any determination by the Secretary of such a reasonable period of time shall be made pursuant to regulations which the Secretary shall prescribe.

(c) In the case of a veteran who has been determined to have a permanent and total non-service-connected disability and who, not later than one year after the date the veteran's eligibility for counseling under subsection (b)(3) of this section expires, secures employment within the scope of a vocational goal identified in the veteran's individualized written plan of vocational rehabilitation (or in a related field which requires reasonably developed skills and the use of some or all of the training or services furnished the veteran under such plan), the evaluation of the veteran as having a permanent and total disability may not be terminated by reason of the veteran's capacity to engage in such employment until the veteran first maintains such employment for a period of not less than 12 consecutive months.

(d) A veteran who pursues a vocational training program under subsection (b) of this section shall have the benefit of the provisions of subsection (a) of section 1525 of this title beginning at such time as the veteran's entitlement to pension is terminated by reason of income from work or training (as defined in subsection (b)(1) of that section) without regard to the date on which the veteran's entitlement to pension is terminated.

(e) Payments by the Secretary for education, training, and other services and assistance under subsection (b) of this section (other than the services of Department employees) shall be made from the Department appropriations account from which payments for pension are made.

(Added Pub. L. 98–543, title III, § 301(a)(1), Oct. 24, 1984, 98 Stat. 2744, § 524; amended Pub. L. 99–576, title VII, § 703(b)(1), Oct. 28, 1986, 100 Stat. 3303; Pub. L. 100–227, title II, § 202, Dec. 31, 1987, 101 Stat. 1555; Pub. L. 100–687, div. B, title XIII, § 1303(a), (b), Nov. 18, 1988, 102 Stat. 4128; Pub. L. 101–237, title I, § 114, Dec. 18, 1989, 103 Stat. 2065; renumbered § 1524 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–291, § 2(b), May 20, 1992, 106 Stat. 178; Pub. L. 102–568, title IV, § 402(a)–(c)(2)(A), Oct. 29, 1992, 106 Stat. 4337; Pub. L. 103–446, title XII, § 1201(g)(2), Nov. 2, 1994, 108 Stat. 4687.)

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–446 substituted ''If'' for ''Subject to paragraph (3) of this subsection, if''.

1992—Pub. L. 102–568, § 402(c)(2)(A), substituted ''Vocational training for certain pension recipients'' for ''Temporary program of vocational training for certain new pension recipients'' as section catchline.

Subsec. (a)(1). Pub. L. 102–568, § 402(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Subject to paragraph (3) of this subsection, in the case of a veteran under the age of 45 who is awarded pension during the program period, the Secretary shall determine whether the achievement of a vocational

goal by the veteran is reasonably feasible. Any such determination shall be made only after evaluation of the veteran's potential for rehabilitation, and any such evaluation shall include a personal interview of the veteran by a Department employee who is trained in vocational counseling. If the veteran fails, for reasons other than those beyond the veteran's control, to participate in the evaluation in the manner required by the Secretary in order to make such determination, the Secretary shall suspend the veteran's pension for the duration of such failure.''

Subsec. (a)(3). Pub. L. 102–568, § 402(b), redesignated par. (4) as (3), substituted ''December 31, 1995'' for ''December 31, 1992'', and struck out former par. (3) which read as follows: ''Not more than 3,500 veterans may be given evaluations under this subsection during any 12-month period beginning on February 1 of a year.''

Subsec. (a)(4). Pub. L. 102–568, § 402(b)(2), redesignated par. (4) as (3).

Pub. L. 102–291 substituted ''December 31, 1992'' for ''January 31, 1992''.

Subsec. (b)(4). Pub. L. 102–568, § 402(c)(1), substituted ''December 31, 1995'' for ''January 31, 1992''.

1991—Pub. L. 102–83, § 5(a), renumbered section 524 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing in pars. (1) and (2).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in pars. (1) and (2).

Subsec. (b)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3107'' for ''1507''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(2)(B)(i). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b)(2)(B)(iii). Pub. L. 102–83, § 5(c)(1), substituted ''3452(b) and 3452(f)'' for ''1652(b) and 1652(f)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(3). Pub. L. 102–83, § 5(c)(1), substituted ''3104(a)(2)'' for ''1504(a)(2)'', ''3104(a)(5)'' for ''1504(a)(5)'', and ''3104(a)(6)'' for ''1504(a)(6)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1525'' for ''525''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

1989—Subsec. (a)(1), (2). Pub. L. 101–237, § 114(a), substituted ''45'' for ''50''.

Subsecs. (c) to (e). Pub. L. 101–237, § 114(b), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1988—Subsec. (a)(2). Pub. L. 100–687, § 1303(a), substituted ''is awarded pension during the program period, or a veteran who was awarded pension before the beginning of the program period,'' for ''who is awarded pension during the program period''.

Subsecs. (a)(4), (b)(4)(A). Pub. L. 100–687, § 1303(b), substituted ''1992'' for ''1989''.

1987—Subsec. (a)(3). Pub. L. 100–227 substituted ''3,500'' for ''2,500''.

1986—Subsec. (a)(2). Pub. L. 99–576, § 703(b)(1)(A), substituted ''subsection (b) of this section'' for ''subsection (d) of this section''.

Subsec. (b)(4). Pub. L. 99–576, § 703(b)(1)(B), substituted ''subsection (a) of this section'' for ''subsection (a)(1) of this section''.

Subsec. (c). Pub. L. 99–576, § 703(b)(1)(C), substituted ''A veteran'' for ''Notwithstanding subsection (c) of section 525 of this title, a veteran'' and ''defined in subsection (b)(1) of that section'' for ''defined in subsection (b) of that section'', and inserted ''without regard to the date on which the veteran's entitlement to pension is terminated.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–291 effective Jan. 31, 1992, see section 2(d) of Pub. L. 102–291, set out as a note under section 1163 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–576 effective as if included in Pub. L. 98–543, see section 703(c) of Pub. L. 99–576, set out as a note under section 1313 of this title.

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Provision of a vocational training program to a veteran under this section and the making of related determinations under this section ratified with respect to period beginning Feb. 1, 1992, and ending May 20, 1992, see section 2(e) of Pub. L. 102–291, set out as a note under section 1163 of this title.

REPORT TO CONGRESSIONAL COMMITTEES; NEW PENSION RECIPIENTS; HEALTH-CARE ELIGIBILITY

Section 301(b) of Pub. L. 98–543 directed Administrator of Veterans' Affairs to submit to Committees on Veterans' Affairs of Senate and House of Representatives not later than Apr. 15, 1988, a report on results of implementation of this section and section 525 [now 1525] of this title during period beginning on Feb. 1, 1985, and ending on Jan. 31, 1988.

§ 1525. Protection of health-care eligibility

(a) In the case of a veteran whose entitlement to pension is terminated after January 31, 1985, by reason of income from work or training, the veteran shall retain for a period of three years beginning on the date of such termination all eligibility for care and services under such chapter that the veteran would have had if the veteran's entitlement to pension had not been terminated. Care and services for which such a veteran retains eligibility include, when applicable, drugs and medicines under section 1712(d) of this title.

(b) For purposes of this section, the term ''terminated by reason of income from work or training'' means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.

(Added Pub. L. 98–543, title III, § 301(a)(1), Oct. 24, 1984, 98 Stat. 2746, § 525; amended Pub. L. 99–272, title XIX, § 19011(d)(1), Apr. 7, 1986, 100 Stat. 378; Pub. L. 99–576, title VII, § 703(b)(2), Oct. 28, 1986, 100 Stat. 3303; Pub. L. 100–687, div. B, title XIII, § 1303(c), Nov. 18, 1988, 102 Stat. 4128; renumbered § 1525 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–291, § 2(c), May 20, 1992, 106 Stat. 178; Pub. L. 102–568, title IV, § 403(a), (b)(1), Oct. 29, 1992, 106 Stat. 4337; Pub. L. 104–262, title I, § 101(e)(1), Oct. 9, 1996, 110 Stat. 3180.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–262, § 101(e)(1)(A), substituted ''section 1712(d) of this title'' for ''section 1712(h) of this title and special priority with respect to such care and services under clauses (5) and (6) of section 1712(i)''.

Subsec. (b). Pub. L. 104–262, § 101(e)(1)(B), substituted ''remuneration'' for ''renumeration''.

1992—Pub. L. 102–568, § 403(b)(1), substituted ''Protection'' for ''Temporary protection'' in section catchline.

Subsec. (a). Pub. L. 102–568, § 403(a)(1), substituted ''after January 31, 1985,'' for ''during the program period''.

Subsec. (b). Pub. L. 102–568, § 403(a)(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''For the purposes of this section:

''(1) The term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for remuneration or gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.

''(2) The term 'program period' means the period beginning on February 1, 1985, and ending on December 31, 1992.''

Pub. L. 102–291 substituted ''December 31, 1992'' for ''January 31, 1992'' in par. (2).

1991—Pub. L. 102–83, § 5(a), renumbered section 525 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1712(h)'' for ''612(h)'' and ''1712(i)'' for ''612(i)''.

1988—Subsec. (b)(2). Pub. L. 100–687 substituted ''1992'' for ''1989''.

1986—Subsec. (a). Pub. L. 99–576 struck out ''under section 521 of this title'' after ''entitlement to pension''.

Pub. L. 99–272 substituted ''clauses (5) and (6) of section 612(i)'' for ''section 612(i)(5) of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–291 effective Jan. 31, 1992, see section 2(d) of Pub. L. 102–291, set out as a note under section 1163 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective as if included in Pub. L. 98–543, see section 703(c) of Pub. L. 99–576, set out as a note under section 1313 of this title.

Amendment by Pub. L. 99–272 applicable to hospital care, nursing home care, and medical services furnished on or after July 1, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Provision of health care and services to a veteran pursuant to this section ratified with respect to period beginning Feb. 1, 1992, and ending May 20, 1992, see section 2(e) of Pub. L. 102–291, set out as a note under section 1163 of this title.

SUBCHAPTER III—PENSIONS TO SURVIVING SPOUSES AND CHILDREN

AMENDMENTS

1975—Pub. L. 94–169, title I, § 101(2)(G), Dec. 23, 1975, 89 Stat. 1014, substituted ''SURVIVING SPOUSES'' for ''WIDOWS'' in subchapter heading.

WARS BEFORE WORLD WAR I

[§ 1531. Vacant]

CODIFICATION

Prior to renumbering of sections 501 to 543 of this chapter as sections 1501 to 1543 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 531 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1137; Pub. L. 90–77, title I, § 105, Aug. 31, 1967, 81 Stat. 179, which provided for a monthly pension to widows of Mexican War veterans, was repealed by Pub. L. 94–169, title I, § 101(2)(F), Dec. 23, 1975, 89 Stat. 1014, effective Jan. 1, 1976.

§ 1532. Surviving spouses of Civil War veterans

(a) The Secretary shall pay to the surviving spouse of each Civil War veteran who met the service requirements of this section a pension at the following monthly rate:

(1) $40.64 if such surviving spouse is below seventy years of age; or

(2) $70 if such surviving spouse is seventy years of age or older.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) A veteran met the service requirements of this section if such veteran served for ninety days or more in the active military or naval service during the Civil War, as heretofore defined under public laws administered by the Veterans' Administration, or if such veteran was discharged or released from such service upon a surgeon's certificate of disability.

(d) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before June 27, 1905; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1137, § 532; Pub. L. 90–77, title I, §§ 101(a), 105, Aug. 31, 1967, 81 Stat. 178, 179; Pub. L. 94–169, title I, § 106(20)–(23), Dec. 23, 1975, 89 Stat. 1018; Pub. L. 102–54, § 14(b)(7), June 13, 1991, 105 Stat. 283; renumbered § 1532 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 103–446, title XII, § 1201(a)(2), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–446 substituted ''Veterans' Administration'' for ''Secretary''.

1991—Pub. L. 102–83, § 5(a), renumbered section 532 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Pub. L. 102–54 substituted a period for semicolon at end of par. (2) and struck out at end ''unless such surviving spouse was the spouse of the veteran during such veteran's service in the Civil War, in which case the monthly rate shall be $75.''

Subsec. (c). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1975—Pub. L. 94–169, § 106(23), substituted ''Surviving spouses'' for ''Widows'' in section catchline.

Subsec. (a). Pub. L. 94–169, § 106(20), substituted ''pay to the surviving spouse'' for ''pay to the widow'', ''such surviving spouse'' for ''she'' wherever appearing, ''was the spouse'' for ''was the wife'' and ''such veteran's'' for ''his''.

Subsec. (b). Pub. L. 94–169, § 106(21), substituted ''surviving spouse'' for ''widow''.

Subsec. (c). Pub. L. 94–169, § 106(21), substituted ''such veteran'' for ''he'' wherever appearing.

Subsec. (d). Pub. L. 94–169, § 106(22), substituted ''surviving spouse'', ''such surviving spouse'' and ''such veteran'' for ''widow'', ''she'' and ''him'', respectively.

1967—Subsec. (a)(2). Pub. L. 90–77, § 105, substituted ''$70'' for ''$65''.

Subsec. (d). Pub. L. 90–77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenupital birth.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 1533. Children of Civil War veterans

Whenever there is no surviving spouse entitled to pension under section 1532 of this title, the Secretary shall pay to the children of each Civil War veteran who met the service requirements of section 1532 of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1137, § 533; Pub. L. 94–169, title I, § 106(25), Dec. 23, 1975, 89 Stat. 1018; renumbered § 1533 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 533 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1532'' for ''532'' in two places.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1975—Pub. L. 94–169 substituted ''surviving spouse'' for ''widow''.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

§ 1534. Surviving spouses of Indian War veterans

(a) The Secretary shall pay to the surviving spouse of each Indian War veteran who met the service requirements of section 1511 of this title a pension at the following monthly rate:

(1) $40.64 if such surviving spouse is below seventy years of age; or

(2) $70 if such surviving spouse is seventy years of age or older.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before March 4, 1917; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1137, § 534; Pub. L. 90–77, title I, §§ 101(a), 105, Aug. 31, 1967, 81 Stat. 178, 179; Pub. L. 94–169, title I, § 106(26)–(29), Dec. 23, 1975, 89 Stat. 1018; Pub. L. 102–54, § 14(b)(7), June 13, 1991, 105 Stat. 283; renumbered § 1534 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 534 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1511'' for ''511'' in introductory provisions.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Pub. L. 102–54 substituted a period for semicolon at end of par. (2) and struck out at end ''; unless such surviving spouse was the spouse of the veteran during such veteran's service in one of the Indian Wars, in which case the monthly rate shall be $75.''

1975—Pub. L. 94–169, § 106(29), substituted ''Surviving spouses'' for ''Widows'' in section catchline.

Subsec. (a). Pub. L. 94–169, § 106(26), substituted ''pay to a surviving spouse'' for ''paid to a widow'', ''unless such surviving spouse'' for ''she'' wherever appearing, ''was the spouse'' for ''was the wife'' and ''such veteran's'' for ''his''.

Subsec. (b). Pub. L. 94–169, § 106(27), substituted ''surviving spouse'' for ''widow''.

Subsec. (c). Pub. L. 94–169, § 106(28), substituted ''paid to a surviving spouse'' for ''paid to a widow'', ''unless such surviving spouse'' for ''unless she'' and ''such veteran'' for ''him''.

1967—Subsec. (a)(2). Pub. L. 90–77, § 105, substituted ''$70'' for ''$65''.

Subsec. (c). Pub. L. 90–77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 1535. Children of Indian War veterans

Whenever there is no surviving spouse entitled to pension under section 1534 of this title, the Secretary shall pay to the children of each Indian War veteran who met the service requirements of section 1511 of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1137, § 535; Pub. L. 94–169, title I, § 106(31), Dec. 23, 1975, 89 Stat. 1018; renumbered § 1535 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 535 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1534'' for ''534'' and ''1511'' for ''511''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1975—Pub. L. 94–169 substituted ''surviving spouse'' for ''widow''.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

§ 1536. Surviving spouses of Spanish-American War veterans

(a) The Secretary shall pay to the surviving spouse of each Spanish-American War veteran who met the service requirements of section

1512(a) of this title a pension at the monthly rate of $70, unless such surviving spouse was the spouse of the veteran during such veteran's service in the Spanish-American War, in which case the monthly rate shall be $75.

(b) If there is a child of the veteran, the rate of pension paid to the surviving spouse under subsection (a) shall be increased by $8.13 per month for each such child.

(c) No pension shall be paid to a surviving spouse of a veteran under this section unless such surviving spouse was married to such veteran—

(1) before January 1, 1938; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(d)(1) Any surviving spouse eligible for pension under this section shall, if such surviving spouse so elects, be paid pension at the rates prescribed by section 1541 of this title, and under the conditions (other than the service requirements) applicable to pension paid under that section to surviving spouses of veterans of a period of war. If pension is paid pursuant to such an election, the election shall be irrevocable.

(2) The Secretary shall pay each month to the surviving spouse of each Spanish-American War veteran who is receiving, or entitled to receive, pension based on a need of regular aid and attendance, whichever amount is greater (A) that which is payable to such surviving spouse under subsections (a) and (b) of this section as increased by section 544[1] of this title, as in effect on December 31, 1978; or (B) that which is payable under section 1541 of this title, as in effect on December 31, 1978, as increased by such section 544,[1] as in effect on such date, to a surviving spouse of a World War I veteran with the same annual income and corpus of estate. Each change in the amount of pension required by this paragraph shall be effective as of the first day of the month during which the facts of the particular case warrant such change, and shall be made without specific application therefor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1138, § 536; Pub. L. 90–77, title I, §§ 101(a), 105, Aug. 31, 1967, 81 Stat. 178, 179; Pub. L. 92–328, title I, § 107, June 30, 1972, 86 Stat. 395; Pub. L. 94–169, title I, § 106(32)–(37), Dec. 23, 1975, 89 Stat. 1018, 1019; Pub. L. 95–588, title I, § 108, Nov. 4, 1978, 92 Stat. 2502; renumbered § 1536 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 544 of this title, referred to in subsec. (d)(2), was repealed by Pub. L. 95–588, title I, § 112(a)(1), Nov. 4, 1978, 92 Stat. 2505, eff. Jan. 1, 1979.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 536 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "1512(a)" for "512(a)".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted "1541" for "541" in pars. (1) and (2).

Subsec. (d)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1978—Subsec. (d)(1). Pub. L. 95–588, § 108(1), substituted "a period of war" for "World War I", and struck out ", except as provided in paragraph (2)" after "irrevocable".

Subsec. (d)(2). Pub. L. 95–588, § 108(2), inserted ", as in effect on December 31, 1978" after "of this title" in two places, and "as in effect on such date" after "such section 544".

1975—Pub. L. 94–169, § 106(37), substituted "Surviving spouses" for "Widows" in section catchline.

Subsec. (a). Pub. L. 94–169, § 106(32), substituted "pay to the surviving spouse" for "pay to the widow", "unless such surviving spouse" for "unless she", "the spouse" for "the wife" and "such veteran's" for "his".

Subsec. (b). Pub. L. 94–169, § 106(33), substituted "surviving spouse" for "widow".

Subsec. (c). Pub. L. 94–169, § 106(33), substituted "paid to a surviving spouse" for "paid to a widow", "unless such surviving spouse" for "unless she" and "such veteran" for "him".

Subsec. (d)(1). Pub. L. 94–169, § 106(34), substituted "Any surviving spouse" for "Any widow", "if such surviving spouse" for "if she" and "surviving spouses" for "widows".

Subsec. (d)(2). Pub. L. 94–169, § 106(35), (36), substituted "surviving spouse" for "widow" wherever appearing, and "such surviving spouse" for "her".

1972—Subsec. (d). Pub. L. 92–328 added subsec. (d).

1967—Subsec. (a). Pub. L. 90–77, § 105, substituted "$70" for "$65".

Subsec. (c). Pub. L. 90–77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92–328, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

INCREASE IN AID AND ATTENDANCE RATES FOR VETERANS ELIGIBLE FOR PENSION

Maximum annual pension rates under subsec. (d)(2) of this section increased by $600, effective Oct. 1, 1998, see section 8206 of Pub. L. 105–178, set out as a note under section 1521 of this title.

§ 1537. Children of Spanish-American War veterans

Whenever there is no surviving spouse entitled to pension under section 1536 of this title, the Secretary shall pay to the children of each Spanish-American War veteran who met the service requirements of section 1512(a) of this title a pension at the monthly rate of $73.13 for one child, plus $8.13 for each additional child, with the total amount equally divided.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1138, § 537; Pub. L. 94–169, title I, § 106(39), Dec. 23, 1975, 89

[1] See References in Text note below.

Stat. 1019; renumbered § 1537 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 537 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1536'' for ''536'' and ''1512(a)'' for ''512(a)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1975—Pub. L. 94–169 substituted ''surviving spouse'' for ''widow''.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

OTHER PERIODS OF WAR

AMENDMENTS

1991—Pub. L. 102–25, title III, § 333(c)(1), Apr. 6, 1991, 105 Stat. 88, substituted ''OTHER PERIODS OF WAR'' for ''MEXICAN BORDER PERIOD, WORLD WAR I, WORLD WAR II, THE KOREAN CONFLICT, AND THE VIETNAM ERA'' as subheading.

1970—Pub. L. 91–588, § 9(d)(3), Dec. 24, 1970, 84 Stat. 1585, inserted reference to Mexican border period in subheading.

1967—Pub. L. 90–77, title III, § 202(j), Aug. 31, 1967, 81 Stat. 183, inserted reference to Vietnam era in subheading.

§ 1541. Surviving spouses of veterans of a period of war

(a) The Secretary shall pay to the surviving spouse of each veteran of a period of war who met the service requirements prescribed in section 1521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, pension at the rate prescribed by this section, as increased from time to time under section 5312 of this title.

(b) If no child of the veteran is in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $2,379, reduced by the amount of the surviving spouse's annual income.

(c) If there is a child of the veteran in the custody of the surviving spouse, pension shall be paid to the surviving spouse at the annual rate of $3,116. If the surviving spouse has custody of two or more such children, the annual pension rate shall be increased by $600 for each such child in excess of one. In each case, the rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

(d)(1) If a surviving spouse who is entitled to pension under subsection (b) of this section is in need of regular aid and attendance, the annual rate of pension payable to such surviving spouse shall be $3,806, reduced by the amount of the surviving spouse's annual income.

(2) If a surviving spouse who is entitled to pension under subsection (c) of this section is in need of regular aid and attendance, the annual rate of pension payable to the surviving spouse shall be $4,543. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the annual income of each such child.

(e)(1) If the surviving spouse is permanently housebound but does not qualify for pension at the aid and attendance rate provided by subsection (d) of this section, the annual rate of pension payable to such surviving spouse under subsection (b) of this section shall be $2,908 and the annual rate of pension payable to such surviving spouse under subsection (c) of this section shall be $3,645. If there are two or more children of the veteran in such surviving spouse's custody, the annual rate of pension shall be increased by $600 for each such child in excess of one. The rate payable shall be reduced by the amount of the surviving spouse's annual income and, subject to subsection (g) of this section, the income of any child of the veteran for whom the surviving spouse is receiving increased pension.

(2) For purposes of paragraph (1) of this subsection, the requirement of ''permanently housebound'' shall be met when the surviving spouse is substantially confined to such surviving spouse's house (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities reasonably certain to remain throughout such surviving spouse's lifetime.

(f) No pension shall be paid under this section to a surviving spouse of a veteran unless the spouse was married to the veteran—

(1) before (A) December 14, 1944, in the case of a surviving spouse of a Mexican border period or World War I veteran, (B) January 1, 1957, in the case of a surviving spouse of a World War II veteran, (C) February 1, 1965, in the case of a surviving spouse of a Korean conflict veteran, (D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran, or (E) January 1, 2001, in the case of a surviving spouse of a veteran of the Persian Gulf War;

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(g) In determining the annual income of a surviving spouse for the purposes of this section, if there is a child of the veteran in the custody of the surviving spouse, that portion of the annual income of the child that is reasonably available to or for the surviving spouse shall be considered to be income of the surviving spouse, unless in the judgment of the Secretary to do so would work a hardship on the surviving spouse.

(h) As used in this section and section 1542 of this title, the term ''veteran'' includes a person who has completed at least two years of honorable active military, naval, or air service, as certified by the Secretary concerned, but whose death in such service was not in line of duty.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1138, § 541; Pub. L. 86–211, § 4, Aug. 29, 1959, 73 Stat. 434; Pub. L. 88–664, § 3(c), (d), Oct. 13, 1964, 78 Stat. 1095; Pub. L. 90–77, title I, §§ 101(a), 106, title II, § 202(d)–(f), Aug. 31, 1967, 81 Stat. 178, 179, 182; Pub. L. 90–275, § 1(c), (d), Mar. 28, 1968, 82 Stat. 65, 66; Pub. L. 91–588, §§ 1(c), (d), 9(d), Dec. 24, 1970, 84

Stat. 1581, 1584; Pub. L. 92–198, § 1(c)–(e), Dec. 15, 1971, 85 Stat. 663, 664; Pub. L. 93–177, § 1(c), (d), 2, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93–527, § 3, Dec. 21, 1974, 88 Stat. 1703; Pub. L. 94–169, title I, §§ 101(2)(B), (C), (H), 103, 106(40), Dec. 23, 1975, 89 Stat. 1013, 1014, 1016, 1019; Pub. L. 94–432, title II, § 203, Sept. 30, 1976, 90 Stat. 1370; Pub. L. 95–204, title I, § 102, Dec. 2, 1977, 91 Stat. 1456; Pub. L. 95–588, title I, § 109(a), Nov. 4, 1978, 92 Stat. 2503; Pub. L. 102–25, title III, § 333(b), Apr. 6, 1991, 105 Stat. 88; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1541 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 541 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1521(j)'' for ''521(j)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (f)(1)(E). Pub. L. 102–25 added cl. (E).

Subsec. (g). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (h). Pub. L. 102–83, § 5(c)(1), substituted ''1542'' for ''542''.

1978—Subsec. (a). Pub. L. 95–588 revised eligibility provisions relating to surviving spouses to apply to veterans of any period of war rather than veterans of specifically named wars and inserted reference to periodic increases of rate of pension payments pursuant to section 3112 of this title.

Subsec. (b). Pub. L. 95–588 qualified parental requirement of this subsection by inserting custody provision, substituted a fixed pension amount of $2,379 for a formula for determining such annual pension based upon annual income of the veteran, and struck out minimum and maximum monthly payment requirements.

Subsec. (c). Pub. L. 95–588 qualified parental requirement of this subsection by inserting custody provision, substituted a fixed pension amount of $3,116 for a formula for determining such annual pension based upon annual income of the veteran, and inserted a provision authorizing an annual pension rate increase of $600 for each family member of an eligible veteran in excess of one.

Subsec. (d). Pub. L. 95–588 substituted provisions prescribing a fixed amount of $3,806, as reduced by an annual income deduction, as the annual rate of pension payable to a surviving spouse entitled to a pension under subsec. (b) of this section and in need of regular aid and attendance and a fixed amount of $4,543, subject to a similar deduction for income of spouse and child, as the annual rate of pension payable to a surviving spouse entitled to a pension under subsec. (c) of this section and in need of such aid for provision prescribing the monthly rate of pension payable under subsec. (c) of this section where there is a surviving spouse and more than one child.

Subsec. (e). Pub. L. 95–588 substituted provisions relating to a surviving spouse who is permanently housebound for provisions specifying the eligibility requirements for such surviving spouses.

Subsec. (f). Pub. L. 95–588 substituted provisions specifying the eligibility requirements for surviving spouses for provision defining ''veteran''.

Subsecs. (g), (h). Pub. L. 95–588 added subsecs. (g) and (h).

1977—Subsec. (b)(1). Pub. L. 95–204, § 102(1), increased monthly rate of pension from $125 to $133, inserted authorization for reductions by .07 for amounts more than 2,800 but not more than 3,770, and substituted ''1,100'' for ''1,200'' in two places, ''1,800'' for ''2,300'' in two places, and ''2,800'' for ''3,540''.

Subsec. (b)(3). Pub. L. 95–204, § 102(2), substituted ''$3,770'' for ''$3,540''.

Subsec. (c)(1). Pub. L. 95–204, § 102(3), increased monthly rate of pension from $149 to $159, and substituted ''1,600'' for ''1,700'' in two places, ''2,400'' for ''2,500'' in two places, ''2,900'' for ''3,300'' in two places, and ''5,070'' for ''4,760''.

Subsec. (c)(2). Pub. L. 95–204, § 102(4), substituted ''$5,070'' for ''$4,760''.

Subsec. (d). Pub. L. 95–204, § 102(5), substituted ''$26'' for ''$24''.

1976—Subsec. (b)(1). Pub. L. 94–432, § 203(1), increased monthly rate of pension from $117 to $125 and substituted $900 to $1,200 for $900 to $1,500, $1,200 to $2,300 for $1,500 to $2,700 and $2,300 to $3,540 for $2,700 to $3,300.

Subsec. (b)(3). Pub. L. 94–432, § 203(2), substituted ''$3,540'' for ''$3,300''.

Subsec. (c)(1). Pub. L. 94–432, § 203(3), increased monthly rate of pension from $139 to $149 and substituted $1,100 to $1,700 for $1,100 to $1,800, $1,700 to $2,500 for $1,800 to $2,700, $2,500 to $3,300 for $2,700 to $3,500 and $3,300 to $4,760 for $3,500 to $4,500.

Subsec. (c)(2). Pub. L. 94–432, § 203(4), substituted ''$4,760'' for ''$4,500''.

Subsec. (d). Pub. L. 94–432, § 203(5), substituted ''$24'' for ''$22''.

1975—Pub. L. 94–169, § 101(2)(H), substituted ''Surviving Spouses'' for ''Widows'' in section catchline.

Subsec. (a). Pub. L. 94–169, § 101(2)(B), substituted ''surviving spouse'' for ''widow'' and struck out ''his'' before ''death''.

Subsec. (b). Pub. L. 94–169, § 103(1), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, monthly rate of pension from $108 to $117, substituted $900 to $1500 for $900 to $2100, $1500 to $2700 for $2100 to $3000 the minimum and maximum income ranges for which the pension rates will be reduced by 4 and 5 cents per dollar, respectively, inserted income range of $2700 to $3300 for which the pension rate will be reduced by 6 cents, and increased from $3000 to $3300 the maximum income in excess of which no pension will be paid.

Subsec. (c). Pub. L. 94–169, § 103(1), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, pension rate from $128 to $139, substituted $1100 to $1800 for $1100 to $2100, $1800 to $2700 for $2100 to $3000, $2700 to $3500 for $3000 to $4200 the minimum and maximum income ranges for which the pension rates will be reduced by 2, 3 and 4 cents per dollar, respectively, inserted income range of $3500 to $4500 for which the rate will be reduced by 5 cents, and increased the maximum income from $4200 to $4500 in excess of which no pension will be paid.

Subsec. (d). Pub. L. 94–169, § 103(2), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''surviving spouse'' for ''widow'' and ''$22'' for ''$20''.

Subsec. (e). Pub. L. 94–169, § 101(2)(C), substituted ''to a surviving spouse of a veteran under this section unless the spouse was married to the veteran'' for ''to a widow of a veteran under this section unless she was married to him'', and ''(D) May 8, 1985, in the case of a surviving spouse of a Vietnam era veteran'' for ''(D) before the expiration of ten years following termination of the Vietnam era in the case of a widow of a Vietnam era veteran''.

Subsec. (e)(1). Pub. L. 94–169, § 106(40), substituted ''surviving spouse'' for ''widow'' in subcls. (A), (B) and (C).

1974—Subsec. (b). Pub. L. 93–527, § 3(1), substituted ''$108'' for ''$96'', ''$900'' for ''$1400'' wherever appearing, and ''$2100'' for ''$2600'', and inserted provisions for reduction by 5 cents for each dollar of annual income in excess of $2100 up to and including $3000, that in no event shall monthly rate of pension be less than $5.00, and raising the maximum income from $2600 to $3000.

Subsec. (c). Pub. L. 93–527, § 3(2), substituted ''$128'' for ''$114'', and ''$2100'' for ''$2500'' wherever appearing, ''$3000'' for ''$3400'' wherever appearing, and ''$4200'' for ''$3800'' wherever appearing.

Subsec. (d). Pub. L. 93–527, § 3(3), substituted ''$20'' for ''$18''.

Subsec. (f). Pub. L. 93–527, § 3(4), added subsec. (f).

1973—Subsec. (b). Pub. L. 93–177, § 1(c), substituted ''$86'' for ''$87'' and ''$1,400'' for ''$1,900''.

Subsec. (c). Pub. L. 93–177, § 1(d), substituted ''$700'' for ''$600'', ''$114'' for ''$104'', ''$1,100'' for ''$1,400'', ''$2,500'' for ''$2,700'', and ''$3,400'' for ''$3,800'' in existing provisions and inserted provision for a reduction of 4 cents in monthly rate for each $1 of annual income in excess of $3,400 up to and including $3,800.

Subsec. (d). Pub. L. 93–177, § 2, substituted ''$18'' for ''$17''.

1971—Subsec. (b). Pub. L. 92–198, § 1(c), substituted formula for computing monthly pension rates of widow without child by providing for a maximum monthly pension for each group within designated income category and for computing each individual's monthly pension by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out income and pension rates, and raised the maximum income from $2,300 to $2,600.

Subsec. (c). Pub. L. 92–198, § 1(d), substituted formula for computing monthly pension rates of widow with one child by providing for a maximum monthly pension for each group with designated annual income category and for computing each individual's monthly benefit rate by reducing the maximum rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table setting out income and pension rates, and further providing that whenever the monthly rate payable is less than the amount payable to the child under section 542 of this title, the widow would be paid at the child's rate, and raised the maximum income from $3,500 to $3,800.

Subsec. (d). Pub. L. 92–198, § 1(e), substituted ''$17'' for ''$16''.

1970—Pub. L. 91–588, § 9(d)(3), inserted reference to Mexican border period in section catchline.

Subsec. (a). Pub. L. 91–588, § 9(d)(1), inserted reference to Mexican border period.

Subsec. (b). Pub. L. 91–588, § 1(c), provided new annual income limits to measure monthly pension rates of widow without child by inserting minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $29, $23, and $17, respectively, and within existing annual income limits from a maximum of $300 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$81'' for ''$74'', ''80'' for ''73'', ''79'' for ''72'', ''78'' for ''70'', ''76'' for ''67'', ''73'' for ''64'', ''70'' for ''61'', ''67'' for ''58'', ''64'' for ''55'', ''61'' for ''51'', ''58'' for ''48'', ''55'' for ''45'', ''51'' for ''41'', ''48'' for ''37'', ''45'' for ''33'', ''41'' for ''29'', ''37'' for ''23'', and ''33'' for ''17''.

Subsec. (c). Pub. L. 91–588, § 1(d), provided new annual income limits to measure monthly pension rates of widow with one child by inserting minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $45, $43, and $41, respectively, and within existing annual income limits from a maximum of $600 to a maximum of $3,200, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$99'' for ''$90'', ''98'' for ''89'', ''97'' for ''88'', ''96'' for ''87'', ''95'' for ''86'', ''94'' for ''85'', ''92'' for ''83'', ''90'' for ''81'', ''88'' for ''79'', ''86'' for ''77'', ''84'' for ''75'', ''82'' for ''73'', ''80'' for ''71'', ''78'' for ''69'', ''76'' for ''67'', ''74'' for ''65'', ''72'' for ''63'', ''70'' for ''61'', ''68'' for ''59'', ''66'' for ''57'', ''64'' for ''55'', ''62'' for ''53'', ''59'' for ''51'', ''56'' for ''48'', ''53'' for ''45'', ''51'' for ''43'', and ''48'' for ''41''.

Subsec. (e)(1). Pub. L. 91–588, § 9(d)(2), inserted reference to Mexican border period.

1968—Subsec. (b). Pub. L. 90–275, § 1(c), in providing new annual income limits to measure monthly pension rates of widow without child, substituted minimum income limit of $300 for monthly benefit of $74 for former $600 limit for monthly benefit of $70, maximum income limit of $2,000 for monthly benefit of $17 for former $1,800 limit for monthly benefit of $29, and sixteen other in-between limits in one hundred dollar increments from more than $300 to less than $1,900 for monthly benefits of $73 to $23 for former in-between limit of more than $600 but less than $1,200 for monthly benefit of $51.

Subsec. (c). Pub. L. 90–275, § 1(d), in providing new annual income limits to measure monthly pension rates of widow with one child, substituted minimum income limit of $600 for monthly benefit of $90 for former $1,000 limit for monthly benefit of $86, maximum income limit of $3,200 for monthly benefit of $41 for former $3,000 limit for monthly benefit of $45, and twenty-five other in-between limits in one hundred dollar increments from more than $600 to less than $3,100 for monthly benefits of $89 to $43 for former in-between limit of more than $1,000 but less than $2,000 for monthly benefit of $67.

1967—Pub. L. 90–77, § 202(f), inserted reference to Vietnam era in section catchline.

Subsec. (a). Pub. L. 90–77, § 202(d), inserted reference to Vietnam era.

Subsec. (b). Pub. L. 90–77, § 106(a), increased monthly pension rate in column II from $64, $48, and $27 to $70, $51, and $29, respectively.

Subsec. (c). Pub. L. 90–77, § 106(b), increased monthly pension rate in column II from $80, $64, and $43 to $86, $67, and $45, respectively.

Subsec. (d). Pub. L. 90–77, § 106(c), substituted ''$16'' for ''$15''.

Subsec. (e)(1). Pub. L. 90–77, § 202(e), added item (D).

Subsec. (e)(2), (3). Pub. L. 90–77, § 101(a), qualified widow of a veteran for a pension by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

1964—Subsec. (b). Pub. L. 88–664, § 3(c), increased monthly pension rate in column II from $60, $45, and $25 to $64, $48, and $27, respectively.

Subsec. (c). Pub. L. 88–664, § 3(d), increased monthly pension rate in column II from $75, $60, and $40 to $80, $64, and $43, respectively.

1959—Pub. L. 86–211 included widows of World War II and Korean conflict veterans in section catchline.

Subsec. (a). Pub. L. 86–211 included widows of World War II and Korean conflict veterans, and struck out provisions which authorized payment of a monthly pension of $50.40 to a widow with no child and $63 to a widow with one child, with $7.56 for each additional child. See subsecs. (b) to (d) of this section.

Subsecs. (b) to (e). Pub. L. 86–211 added subsecs. (b) to (d), redesignated former subsec. (b) as (e), and inserted provisions relating to the date by which a widow was required to be married to a veteran of World War II or the Korean conflict.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–204 effective Jan. 1, 1978, see section 302 of Pub. L. 95–204, set out as a note under section 1122 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94–432, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Sections 101 and 106 of Pub. L. 94–169 provided that the amendments made by those sections are effective Jan. 1, 1976.

Section 103 of Pub. L. 94–169, as amended by section 101 of Pub. L. 94–432, eff. Sept. 30, 1976, provided that

the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–527 effective Jan. 1, 1975, see section 10 of Pub. L. 93–527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–177 effective Jan. 1, 1974, see section 8 of Pub. L. 93–177, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–198 effective Jan. 1, 1972, see section 6 of Pub. L. 92–198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment Pub. L. 90–275 effective Jan. 1, 1969, see section 6(a) of Pub. L. 90–275, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as a note under section 1521 of this title.

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Payments for balance of calendar year 1968 and calendar year 1969, calendar year 1970, and during each successive calendar year at prescribed monthly rates when payments would be less under this title as a result of increase in monthly insurance benefits provided by Social Security Amendments of 1967, see section 3 of Pub. L. 90–275, set out as a note under section 1521 of this title.

§ 1542. Children of veterans of a period of war

The Secretary shall pay to each child (1) who is the child of a deceased veteran of a period of war who met the service requirements prescribed in section 1521(j) of this title, or who at the time of death was receiving (or entitled to receive) compensation or retirement pay for a service-connected disability, and (2) who is not in the custody of a surviving spouse eligible for pension under section 1541 of this title, pension at the annual rate of $600, as increased from time to time under section 5312 of this title and reduced by the amount of such child's annual income; or, if such child is residing with a person who is legally responsible for such child's support, at an annual rate equal to the amount by which the appropriate annual rate provided under section 1541(c) of this title exceeds the sum of the annual income of such child and such person, but in no event may such annual rate of pension exceed the amount by which $600, as increased from time to time under section 5312 of this title, exceeds the annual income of such child. The appropriate annual rate under such section 1541(c) for the purposes of the preceding sentence shall be determined in accordance with regulations which the Secretary shall prescribe.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1138, § 542; Pub. L. 86–211, § 4, Aug. 29, 1959, 73 Stat. 435; Pub. L. 88–664, § 4, Oct. 13, 1964, 78 Stat. 1095; Pub. L. 90–77, title I, § 107, title II, § 202(g), (h), Aug. 31, 1967, 81 Stat. 180, 182; Pub. L. 91–588, §§ 3(c), 9(e), Dec. 24, 1970, 84 Stat. 1583, 1585; Pub. L. 92–198, § 1(f), Dec. 15, 1971, 85 Stat. 664; Pub. L. 93–177, § 3, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93–527, § 4, Dec. 21, 1974, 88 Stat. 1703; Pub. L. 94–169, title I, §§ 101(2)(D), 104, Dec. 23, 1975, 89 Stat. 1014, 1016; Pub. L. 94–432, title II, § 204, Sept. 30, 1976, 90 Stat. 1371; Pub. L. 95–204, title I, § 103, Dec. 2, 1977, 91 Stat. 1457; Pub. L. 95–588, title I, § 110(a), Nov. 4, 1978, 92 Stat. 2504; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1542 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 542 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1521(j)'' for ''521(j)'', ''1541'' for ''541'', and ''1541(c)'' for ''541(c)'' in two places.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–40 substituted ''5312'' for ''3112'' in two places.

1978—Pub. L. 95–588 amended section generally to speak in terms of children of veterans of any period of war rather than children of veterans of specifically named conflicts, restructured section to eliminate subsection designations, struck out provision formerly comprising subsec. (b) of this section which related to payment of pensions to recipient children in equal shares, and inserted reference to periodic pension increases pursuant to section 3112 of this title.

1977—Subsec. (a). Pub. L. 95–204, § 103(1), substituted ''$61'' and ''$26'' for ''$57'' and ''$24'', respectively.

Subsec. (c). Pub. L. 95–204, § 103(2), substituted ''$3,080'' for ''$2,890''.

1976—Subsec. (a). Pub. L. 94–432, § 204(1), substituted ''$57'' and ''$24'' for ''$53'' and ''$22'', respectively.

Subsec. (c). Pub. L. 94–432, § 204(2), substituted ''$2,890'' for ''$2,700''.

1975—Subsec. (a). Pub. L. 94–169, §§ 101(2)(D), 104(1), substituted ''surviving spouse'' for ''widow'', struck out ''his'' before ''death,'' and, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, substituted ''$53'' for ''$49'' and ''$22'' for ''$20''.

Subsec. (c). Pub. L. 94–169, § 104, substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''$2700'' for ''$2400''.

1974—Subsec. (a). Pub. L. 93–527, § 4(1), substituted ''$49'' and ''$20'' for ''$44'' and ''$18'' respectively.

Subsec. (c). Pub. L. 93–527, § 4(2), substituted ''$2,400'' for ''$2,000''.

1973—Subsec. (a). Pub. L. 93–177 substituted ''$44'' for ''$42'' and ''$18'' for ''$17''.

1971—Subsec. (a). Pub. L. 92–198 substituted ''$42'' and ''$17'' for ''$40'' and ''$16'' respectively.

1970—Pub. L. 91–588, § 9(e)(2), inserted reference to Mexican border period in section catchline.

Subsec. (a). Pub. L. 91–588, § 9(e)(1), inserted reference to Mexican border period.

Subsec. (c). Pub. L. 91–588, § 3(c), substituted ''$2,000'' for ''$1,800''.

1967—Pub. L. 90–77, § 202(h), inserted reference to Vietnam era in section catchline.

Subsec. (a). Pub. L. 90–77, §§107, 202(g), substituted ''$40'' and ''$16'' for ''$38'' and ''$15'' and included reference to Vietnam era, respectively.

1964—Subsec. (a). Pub. L. 88–664 increased monthly pension for one child from $35 to $38.

1959—Pub. L. 86–211 included children of World War II and Korean conflict veterans in section catchline.

Subsec. (a). Pub. L. 86–211 included children of World War II and Korean conflict veterans, and substituted provisions authorizing the payment of a monthly pension of $35 for one child with $15 for each additional child for provisions which authorized the payment of $27.30 for one child, $40.95 for two children, $54.60 for three children and $7.56 for each additional child.

Subsec. (c). Pub. L. 86–211 added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–204 effective Jan. 1, 1978, see section 302 of Pub. L. 95–204, set out as a note under section 1122 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94–432, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 101 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

Section 104 of Pub. L. 94–169, as amended by section 101 of Pub. L. 94–432, eff. Sept. 30, 1976, provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–527 effective Jan. 1, 1975, see section 10 of Pub. L. 93–527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–177 effective Jan. 1, 1974, see section 8 of Pub. L. 93–177, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–198 effective Jan. 1, 1972, see section 6 of Pub. L. 92–198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as a note under section 1521 of this title.

§ 1543. Net worth limitation

(a)(1) The Secretary shall deny or discontinue payment of pension to a surviving spouse under section 1541 of this title when the corpus of the estate of the surviving spouse is such that under all the circumstances, including consideration of the income of the surviving spouse and the income of any child from whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of such estate be consumed for the surviving spouse's maintenance.

(2) The Secretary shall deny or discontinue the payment of increased pension under subsection (c), (d), or (e) of section 1541 of this title on account of a child when the corpus of such child's estate is such that under all the circumstances, including consideration of the income of the surviving spouse and such child and the income of any other child for whom the surviving spouse is receiving increased pension, it is reasonable that some part of the corpus of the child's estate be consumed for the child's maintenance. During the period such denial or discontinuance remains in effect, such child shall not be considered as the surviving spouse's child for purposes of this chapter.

(b) The Secretary shall deny or discontinue payment of pension to a child under section 1542 of this title when the corpus of the estate of the child is such that under all the circumstances, including consideration of the income of the child, the income of any person with whom such child is residing who is legally responsible for such child's support, and the corpus of the estate of such person, it is reasonable that some part of the corpus of such estates be consumed for the child's maintenance.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1138, § 543; Pub. L. 86–211, § 4, Aug. 29, 1959, 73 Stat. 435; Pub. L. 94–169, title I, § 101(2)(E), Dec. 23, 1975, 89 Stat. 1014; Pub. L. 95–588, title I, § 111, Nov. 4, 1978, 92 Stat. 2504; renumbered § 1543 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 543 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1541'' for ''541'' in pars. (1) and (2).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in pars. (1) and (2).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1542'' for ''542''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1978—Pub. L. 95–588 designated existing provisions relating to denial or discontinuance of pension payments to surviving spouses as subsec. (a), expanded existing provisions relating to denial or discontinuance of pension payments to children of veterans, and designated such expanded provisions as subsecs. (a)(2) and (b).

1975—Pub. L. 94–169 substituted ''surviving spouse'' for ''widow''.

1959—Pub. L. 86–211 substituted provisions requiring the denial or discontinuance of payment of pension to a widow or child when the corpus of the estate of the survivor concerned is such that under all the circumstances, including consideration of income, it is reasonable that some part of the corpus be consumed for the survivor's maintenance for provisions which authorized the payment of a pension to widows of World War II or Korean conflict veterans. See section 1541 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 101 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as a note under section 1521 of this title.

[SURVIVING SPOUSES OF VETERANS OF ALL PERIODS OF WAR—REPEALED]

AMENDMENTS

1978—Pub. L. 95–588, title I, § 112(a)(2), Nov. 4, 1978, 92 Stat. 2505, struck out heading ''SURVIVING SPOUSES OF VETERANS OF ALL PERIODS OF WAR'' below section 543 [now 1543].

1975—Pub. L. 94–169, title I, § 101(2)(I), Dec. 23, 1975, 89 Stat. 1014, substituted ''SURVIVING SPOUSES'' for ''WIDOWS'' in heading below section 543.

[§ 1544. Vacant]

CODIFICATION

Prior to renumbering of sections 501 to 543 of this chapter as sections 1501 to 1543 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 544 of this chapter, added Pub. L. 90–77, title I, § 108(a), Aug. 31, 1967, 81 Stat. 180; amended Pub. L. 91–588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 93–527, § 5, Dec. 21, 1974, 88 Stat. 1704; Pub. L. 94–169, title I, § 105, Dec. 23, 1975, 89 Stat. 1017; Pub. L. 94–432, title II, § 205, Sept. 30, 1976, 90 Stat. 1371; Pub. L. 95–204, title I, § 104, Dec. 2, 1977, 91 Stat. 1457, which authorized an increase by $79 of the monthly rate of pension payable to the surviving spouse if the surviving spouse was entitled to pension under this subchapter and was in need of regular aid and attendance, was repealed by Pub. L. 95–588, title I, § 112(a)(1), title IV, § 401, Nov. 4, 1978, 92 Stat. 2505, 2511, effective Jan. 1, 1979.

SUBCHAPTER IV—ARMY, NAVY, AIR FORCE, AND COAST GUARD MEDAL OF HONOR ROLL

AMENDMENTS

1963—Pub. L. 88–77, § 5(3), July 25, 1963, 77 Stat. 96, substituted ''ARMY, NAVY, AIR FORCE, AND COAST GUARD'' for ''ARMY, NAVY, AND AIR FORCE'' in subchapter heading.

§ 1560. Medal of Honor Roll; persons eligible

(a) There shall be in the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Department of Homeland Security, respectively, a roll designated as the ''Army, Navy, Air Force, and Coast Guard Medal of Honor Roll''.

(b) Upon written application to the Secretary concerned, that Secretary shall enter and record on such roll the name of each surviving person who has served on active duty in the armed forces of the United States and who has been awarded a medal of honor for distinguishing such person conspicuously by gallantry and intrepidity at the risk of such person's life above and beyond the call of duty while so serving.

(c) Applications for entry on such roll shall be made in the form and under regulations prescribed by the Secretary concerned, and shall indicate whether or not the applicant desires to receive the special pension provided by section 1562 of this title. Proper blanks and instructions shall be furnished by the Secretary concerned, without charge upon the request of any person claiming the benefits of this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1139, § 560; Pub. L. 87–138, § 1, Aug. 14, 1961, 75 Stat. 338; Pub. L. 88–77, § 5(1), July 25, 1963, 77 Stat. 95; Pub. L. 88–651, Oct. 13, 1964, 78 Stat. 1078; Pub. L. 89–311, § 4, Oct. 31, 1965, 79 Stat. 1156; Pub. L. 91–24, § 5, June 11, 1969, 83 Stat. 33; Pub. L. 94–169, title I, § 106(41), Dec. 23, 1975, 89 Stat. 1019; renumbered § 1560 and amended Pub. L. 102–83, §§ 4(b)(4)(A), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 405, 406; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

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

1991—Pub. L. 102–83, § 5(a), renumbered section 560 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 4(b)(4)(A), substituted ''that Secretary'' for second reference to ''the Secretary''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1562'' for ''562''.

1975—Subsec. (b). Pub. L. 94–169 substituted ''such person'' for ''himself'' and ''such person's'' for ''his''.

1969—Subsec. (a). Pub. L. 91–24 substituted ''Department of Transportation'' for ''Department of the Treasury''.

1965—Subsec. (b). Pub. L. 89–311 struck out requirement that prospective enrollees have attained the age of forty before being eligible for entry on the roll.

1964—Subsec. (b). Pub. L. 88–651 substituted ''forty years'' for ''fifty years'' and ''beyond the call of duty while so serving'' for ''beyond the call of duty—

''(1) while engaged in action against an enemy of the United States;

''(2) while engaged in military operations involving conflict with an opposing foreign force; or

''(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.''

1963—Subsec. (a). Pub. L. 88–77 inserted references to Department of the Treasury and to Coast Guard.

Subsec. (b). Pub. L. 88–77 enlarged the authority to enter and record names on the Medal of Honor Roll, which was limited to persons who served in the active military, naval or air service of the United States in any war, and who distinguished themselves by gallantry or intrepidity in action involving actual conflict with an enemy, to permit entering and recording names of persons who served on active duty in the Armed Forces of the United States distinguish themselves by gallantry and intrepidity while engaged in action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force, or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.

1961—Subsec. (b). Pub. L. 87–138, § 1(a), reduced the age requirement for entry on the Medal of Honor Roll from 65 to 50 years and struck out requirement that such person must have received an honorable discharge.

Subsec. (c). Pub. L. 87–138, § 1(b), required applicants to indicate if they wished to receive the pension provided by section 562 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 4 of Pub. L. 87–138 provided that: ''The amendments made by this Act [amending this section and sections 561 and 562 [now 1561 and 1562] of this title] shall take effect on the first day of the first month which begins after the date of the enactment of this Act [Aug. 14, 1961], except that the amendments made by subsection (b) of the first section [amending subsec. (c) of this section] and by section 2 [amending section 561 [now 1561] of this title] shall not apply with respect to any application under section 560 [now 1560] of title 38, United States Code, made before such first day by any person who fulfilled the qualifications prescribed by subsection (b) of such section at the time such application was made.''

§ 1561. Certificate

(a) The Secretary concerned shall determine whether or not each applicant is entitled to have such person's name entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll. If the official award of the Medal of Honor to the applicant, or the official notice to such person thereof, shows that the Medal of Honor was awarded to the applicant for an act described in section 1560 of this title, such award or notice shall be sufficient to entitle the applicant to have such person's name entered on such roll without further investigation; otherwise all official correspondence, orders, reports, recommendations, requests, and other evidence on file in any public office or department shall be considered.

(b) Each person whose name is entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor Roll shall be furnished a certificate of service and of the act of heroism, gallantry, bravery, or intrepidity for which the Medal of Honor was awarded, of enrollment on such roll, and, if such person has indicated such person's desire to receive the special pension provided by section 1562 of this title, of such person's right to such special pension.

(c) The Secretary concerned shall deliver to the Secretary a certified copy of each certificate issued under subsection (b) in which the right of the person named in the certificate to the special pension provided by section 1562 of this title is set forth. Such copy shall authorize the Secretary to pay such special pension to the person named in the certificate.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1139, § 561; Pub. L. 87–138, § 2(a), Aug. 14, 1961, 75 Stat. 338; Pub. L. 88–77, § 5(2), July 25, 1963, 77 Stat. 95; Pub. L. 94–169, title I, § 106(42), (43), Dec. 23, 1975, 89 Stat. 1019; renumbered § 1561 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 561 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1560'' for ''560''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1562'' for ''562''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1562'' for ''562''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' after ''the'' in two places.

1975—Subsec. (a). Pub. L. 94–169, § 106(42), substituted ''such person's'' for ''his'' wherever appearing, and ''such person'' for ''him''.

Subsec. (b). Pub. L. 94–169, § 106(42), substituted ''such person'' for ''he'' and ''such person's'' for ''his'' wherever appearing.

Subsec. (c). Pub. L. 94–169, § 106(43), struck out ''by him'' after ''certificate issued''.

1963—Subsecs. (a), (b). Pub. L. 88–77 inserted references to the Coast Guard.

1961—Pub. L. 87–138 struck out ''entitling holder to pension'', after ''Certificate'' in section catchline.

Subsec. (a). Pub. L. 87–138 substituted ''have his name entered on the Army, Navy, and Air Force Medal of Honor Roll'' for ''the benefits of this subchapter'', and ''have his name entered on such roll'' for ''special pension under this subchapter''.

Subsec. (b). Pub. L. 87–138 inserted provisions relating to the enrollee's indication of desire to receive pension.

Subsec. (c). Pub. L. 87–138 required the copy to set forth the right of the person named in the certificate to the pension.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–138 effective Sept. 1, 1961, except that it shall not apply with respect to applications under section 1560 [formerly 560] of this title made prior to Sept. 1, 1961, by anyone who fulfilled the qualifications prescribed by subsec. (b) of such section 1560 [formerly 560] at the time such application was made, see section 4 of Pub. L. 87–138, set out as a note under section 1560 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1562. Special provisions relating to pension

(a) The Secretary shall pay monthly to each person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll, and a copy of whose certificate has been delivered to the Secretary under subsection (c) of section 1561 of this title, a special pension at the rate of $1,000, as adjusted from time to time under subsection (e), beginning as of the date of application therefor under section 1560 of this title.

(b) The receipt of special pension shall not deprive any person of any other pension or other benefit, right, or privilege to which such person is or may hereafter be entitled under any existing or subsequent law. Special pension shall be paid in addition to all other payments under laws of the United States.

(c) Special pension shall not be subject to any attachment, execution, levy, tax lien, or detention under any process whatever.

(d) If any person has been awarded more than one medal of honor, such person shall not receive more than one special pension.

(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly

special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).

(f)(1) The Secretary shall pay, in a lump sum, to each person who is in receipt of special pension payable under this section an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person's special pension in fact commenced.

(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension for such month under laws for eligibility for special pension (with the exception of the eligibility law requiring a person to have been awarded a Medal of Honor) in effect at the beginning of such month.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1140, § 562; Pub. L. 87–138, § 3, Aug. 14, 1961, 75 Stat. 339; Pub. L. 88–77, § 5(2), July 25, 1963, 77 Stat. 95; Pub. L. 94–169, title I, § 106(44), (45), Dec. 23, 1975, 89 Stat. 1019; Pub. L. 95–479, title III, § 302, Oct. 18, 1978, 92 Stat. 1565; renumbered § 1562 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–161, § 1(a), Nov. 30, 1993, 107 Stat. 1967; Pub. L. 105–368, title III, § 301(a), Nov. 11, 1998, 112 Stat. 3332; Pub. L. 107–330, title III, § 304(a)–(c), Dec. 6, 2002, 116 Stat. 2826.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior sections 1601, 1602, 1621 to 1625, 1631 to 1634, 1641, and 1643, which comprised chapter 32, were renumbered sections 3201, 3202, 3221 to 3225, 3231 to 3234, 3241, and 3243 of this title, respectively. Prior section 1642, Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397; amended Pub. L. 97–295, § 4(37), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 101–237, title IV, § 423(b)(1)(A), (4)(A), Dec. 18, 1989, 103 Stat. 2092, directed Secretary of Veterans Affairs and Secretary of Defense to submit a joint report annually on operations of program provided under chapter 32 of this title, prior to repeal by Pub. L. 102–16, § 5(a), Mar. 22, 1991, 105 Stat. 50.

Other prior sections 1601, 1610 to 1613, 1620 to 1626, 1631 to 1634, 1641 to 1645, 1651 to 1656, and 1661 to 1669, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1174–1192; Pub. L. 86–150, Aug. 11, 1964, 73 Stat. 332; Pub. L. 87–815, § 1, Oct. 15, 1962, 76 Stat. 926; Pub. L. 88–361, § 7, July 7, 1964, 78 Stat. 298, comprised chapter 33, Education of Korean Conflict Veterans, prior to repeal by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23.

Section 1601 defined ''basic service period'', ''eligible veteran'', ''program of education or training'', ''course'', ''dependent'', ''educational institutions'', ''training establishments'', ''State'', and ''Commissioner'', made benefits unavailable to individuals serving as commissioned officers of Coast and Geodetic Survey or of Regular or Reserve Corps of the Public Health Service unless the service qualified those individuals for benefits under title II of the Veteran's Readjustment Assistance Act of 1952, and declared Congressional policy. See sections 3451(3), (4) and 3452(a)(1), (3)(A), (B), (b) to (d) of this title.

Section 1610 provided for entitlement to education or training generally. See section 3461(a) of this title.

Section 1611 related to duration of veteran's education or training. See sections 3452(a)(3)(A), (B), 3461(a), (b)(1), (3), (4), (c), and 3482(c)(2) of this title.

Section 1612 related to commencement of education and time limitations. See section 3462 of this title.

Section 1613 provided for expiration of all education and training. See section 3462(a) of this title.

Section 1620 related to selections of program. See sections 3470 and 3476 of this title.

Section 1621 provided for applications and approval of applications. See section 3471 of this title.

Section 1622 related to change of program. See section 3691 of this title.

Section 1623 provided for disapproval of enrollment in certain courses. See section 3473(a) and (d) of this title.

Section 1624 provided discontinuance for unsatisfactory progress. See section 3474 of this title.

Section 1625 provided for a period of operation for approval. See section 3689 of this title.

Section 1626 related to institutions listed by Attorney General. Similar provisions were classified to section 1789 of this title, renumbered section 1793, and subsequently repealed by section 511(1) of Pub. L. 94–502.

Section 1631 provided for education and training allowance. See section 3481(a), (b), (d), and (e) of this title.

Section 1632 provided for computation of education and training allowances for institutional courses, apprentice and on-the-job training, on-farm training, correspondence and flight training courses, and less-than-half time basis courses. See sections 3482(a), (b)(2), (c)(1) and 3681 of this title.

Section 1633 related to measurement of courses.

Section 1634 related to overcharges by educational institutions.

Section 1641 related to designation of State approving agencies. See section 3671 of this title.

Section 1642 related to approval of courses. See section 3672 of this title.

Section 1643 provided for cooperation between the Administrator and the State approving agencies. See section 3673 of this title.

Section 1644 provided for use of Office of Education and other Federal agencies. See section 3690 of this title.

Section 1645 provided for reimbursement of expenses. See section 3674 of this title.

Section 1651 provided for apprentice or other training on the job.

Section 1652 provided for institutional on-farm training for Korean conflict veterans.

Section 1653 provided for approval of accredited courses for Korean conflict veterans. See section 3675 of this title.

Section 1654 provided for approval of nonaccredited courses for Korean conflict veterans. See section 3676 of this title.

Section 1655 provided for notice of approval of courses for Korean conflict veterans. See section 3677 of this title.

Section 1656 provided for disapproval of courses and discontinuance of allowances for Korean conflict veterans. See section 3678 of this title.

Section 1661 related to authority and duties of Administrator concerning education of Korean conflict veterans.

Section 1662 related to Advisory Committee. See section 3688 of this title.

Section 1663 provided for control by agencies of United States. See section 3682 of this title.

Section 1664 related to conflicting interests by officers or employees of the Veterans Administration, Office of Education, or State approving agency. See section 3683 of this title.

Section 1665 related to reports by institutions concerning Korean conflict veterans. See section 3684 of this title.

Section 1666 related to overpayments to Korean conflict veterans. See section 3685 of this title.

Section 1667 related to examination of records of Korean conflict veterans. See section 3686 of this title.

Section 1668 related to submitting false and misleading claims by Korean conflict veterans or educational institutions. See section 3687 of this title.

Section 1669 related to information furnished by Federal Trade Commission to State approving agencies.

Prior sections 1651, 1652, 1661, 1662, 1670, 1671, 1673, 1674, 1676, 1681, 1682, 1683 to 1685, and 1690 to 1693, which comprised chapter 34, were renumbered 3451, 3452, 3461, 3462, 3470, 3471, 3473, 3474, 3476, 3481, 3482, 3483 to 3485, and 3490 to 3493, respectively, of this title.

Prior section 1663, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15; amended Pub. L. 94–502, title II, § 211(4), Oct. 15, 1976, 90 Stat. 2388; Pub. L. 95–202, title III, § 302(a), Nov. 23, 1977, 91 Stat. 1440; Pub. L. 99–576, title III, § 312, Oct. 28, 1986, 100 Stat. 3273; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092, related to educational and vocational counseling, prior to repeal by Pub. L. 102–16, § 2(b)(1)(A), Mar. 22, 1991, 105 Stat. 49. See section 3697A of this title.

Prior section 1672, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15, related to change of program by veteran, prior to repeal by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090. See section 3691 of this title.

Prior section 1675, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 16, related to period of operation for approval by Administrator, prior to repeal by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090. See section 3689 of this title.

Prior section 1677, added Pub. L. 90–77, title III, § 302(b), Aug. 31, 1967, 81 Stat. 185; amended Pub. L. 90–631, § 5, Oct. 23, 1968, 82 Stat. 1335; Pub. L. 91–219, title I, § 102, title II, § 203, Mar. 26, 1970, 84 Stat. 76, 78; Pub. L. 92–540, title I, § 102(1), title IV, § 401(3), Oct. 24, 1972, 86 Stat. 1075, 1090; Pub. L. 93–508, title I, § 102(1), Dec. 3, 1974, 88 Stat. 1579; Pub. L. 93–602, title II, § 203(a), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 95–202, title I, § 102(1), Nov. 23, 1977, 91 Stat. 1433; Pub. L. 96–466, title II, §§ 201(1), 211(1), title VI, § 603(a), Oct. 17, 1980, 94 Stat. 2187, 2189, 2209, set forth provisions respecting eligibility, approval, etc., for flight training, prior to repeal by Pub. L. 97–35, title XX, §§ 2003(b)(3)(A), 2006, Aug. 13, 1981, 95 Stat. 782, 783, effective Oct. 1, 1981, except as otherwise provided for persons receiving educational assistance.

Prior section 1678, added Pub. L. 90–77, title III, § 306(a), Aug. 31, 1967, 81 Stat. 188, related to special training for educationally disadvantaged, prior to repeal by Pub. L. 91–219, title II, § 204(a)(2), Mar. 26, 1970, 84 Stat. 79. See subchapter V of chapter 34 of this title.

Prior section 1682A, added Pub. L. 95–202, title II, § 201(a), Nov. 23, 1977, 91 Stat. 1436; amended Pub. L. 97–295, § 4(41), Oct. 12, 1982, 96 Stat. 1308, related to accelerated payment of educational assistance allowances, prior to repeal by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

Another prior section 1683, which related to measurement of courses, was renumbered section 1684 and subsequently repealed by Pub. L. 92–540, title III, § 304, Oct. 24, 1972, 86 Stat. 1081.

Another prior section 1683, added Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 91–219, title I, § 103(e), Mar. 26, 1970, 84 Stat. 77; Pub. L. 91–584, § 7, Dec. 24, 1970, 84 Stat. 1576, related to apprenticeship or other on-job training, prior to repeal by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 84 Stat. 1090. See section 3687 of this title.

Another prior section 1684, which related to overcharging of eligible veterans by educational institutions, was renumbered section 1685 and subsequently repealed by Pub. L. 92–540, title II, § 203, Oct. 24, 1972, 86 Stat. 1079.

Another prior section 1684, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 18, § 1683; renumbered § 1684, Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 91–219, title II, § 206(a), Mar. 26, 1970, 84 Stat. 81; Pub. L. 91–584, §§ 8, 11, Dec. 24, 1970, 84 Stat. 1577, related to measurement of courses, prior to repeal by Pub. L. 92–540, title III, § 304, Oct. 24, 1972, 86 Stat. 1081. See section 3688 of this title.

Another prior section 1685, which related to approval of courses, was renumbered section 1683.

Another prior section 1685, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1684; renumbered § 1865, Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, related to overcharging of eligible veterans by educational institutions, prior to repeal by Pub. L. 92–540, title II, § 203, Oct. 24, 1972, 86 Stat. 1079. See section 3690 of this title.

Prior section 1686, added Pub. L. 93–508, title III, § 302(a), Dec. 3, 1974, 88 Stat. 1591; amended Pub. L. 97–35, title XX, § 2005(b), Aug. 13, 1981, 95 Stat. 783, related to educational loans to any eligible veteran to whom section 1662(a)(2) of this title applied, prior to repeal by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

Another prior section 1686, which related to approval of courses, was renumbered section 1683.

Another prior section 1686, which related to discontinuance of educational assistance allowance by Administrator, was renumbered section 1687 and subsequently repealed by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090.

Prior section 1687, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1686; renumbered § 1687, Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, related to discontinuance of educational assistance allowance by Administrator, prior to repeal by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090. See section 3690(b) of this title.

Prior sections 1695 to 1698 were repealed, effective Oct. 1, 1980, by Pub. L. 96–466, title VI, § 601(a)(1), title VIII, § 802(f), Oct. 17, 1980, 94 Stat. 2208, 2218.

Section 1695, added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80, set forth purpose of former subchapter VI relating to a predischarge education program and defined ''eligible person'' for purposes of subchapter VI of chapter 34.

Section 1696, added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80; amended Pub. L. 92–540, title I, § 102(5), title III, § 307, Oct. 24, 1972, 86 Stat. 1075, 1081; Pub. L. 93–508, title I, § 102(5), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93–602, title II, § 203(c), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title II, §§ 201(4), 210(5), 211(13), Oct. 15, 1976, 90 Stat. 2385, 2388, 2389; Pub. L. 95–202, title I, § 102(6), Nov. 23, 1977, 91 Stat. 1434, related to payment of an educational assistance allowance.

Section 1697, added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 81, related to educational and vocational guidance.

Section 1698, added Pub. L. 92–540, title III, § 308, Oct. 24, 1972, 86 Stat. 1082, § 1697A; renumbered § 1698 and amended Pub. L. 94–502, title II, §§ 210(3), 211(14), Oct. 15, 1976, 90 Stat. 2388, 2389; Pub. L. 95–202, title III, § 302(b), Nov. 23, 1977, 91 Stat. 1441, related to coordination with and participation by Department of Defense in carrying out functions and duties of Department of Defense under predischarge education program.

Prior section 1700, which comprised the first section of chapter 35, was renumbered section 3500 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–330, § 304(a), substituted ''$1,000, as adjusted from time to time under subsection (e)'' for ''$600''.

Subsec. (e). Pub. L. 107–330, § 304(b), added subsec. (e).

Subsec. (f). Pub. L. 107–330, § 304(c), added subsec. (f).

1998—Subsec. (a). Pub. L. 105–368 substituted ''$600'' for ''$400''.

1993—Subsec. (a). Pub. L. 103–161 substituted ''$400'' for ''$200''.

1991—Pub. L. 102–83, § 5(a), renumbered section 562 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1561'' for ''561'' and ''1560'' for ''560''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1978—Subsec. (a). Pub. L. 95–479 increased from $100 to $200 the special pension.

1975—Subsec. (a). Pub. L. 94–169, § 106(44), substituted ''delivered to the Administrator'' for ''delivered to him''.

Subsecs. (b), (d). Pub. L. 94–169, § 106(45), substituted ''such person'' for ''he''.

1963—Subsec. (a). Pub. L. 88–77 inserted references to the Coast Guard.

1961—Subsec. (a). Pub. L. 87–138 inserted '', and a copy of whose certificate has been delivered to him under subsection (c) of section 561 of this title,'' after ''Medal of Honor roll'', and increased pension from $10 to $100.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title III, § 304(d), Dec. 6, 2002, 116 Stat. 2826, provided that:

''(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) [amending this section] shall take effect on September 1, 2003. No payment may be made pursuant to subsection (f) of section 1562 of title 38, United States Code, as added by subsection (c) of this section, before October 1, 2003.

''(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2003.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title III, § 301(b), Nov. 11, 1998, 112 Stat. 3332, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Nov. 11, 1998].''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1(b) of Pub. L. 103–161 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to months beginning after the date of the enactment of this Act [Nov. 30, 1993].''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Jan. 1, 1979, see section 401(b) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 106 of Pub. L. 94–169 provided that the amendment made by that section is effective Jan. 1, 1976.

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.

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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1731. Assistance to the Republic of the Philippines.
1732. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center.
1733. Supervision of program by the President.
1734. Hospital and nursing home care and medical services in the United States.
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SUBCHAPTER V—PAYMENTS TO STATE HOMES

1741. Criteria for payment.

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SUBCHAPTER VI—SICKLE CELL ANEMIA

1751. Screening, counseling, and medical treatment.
1752. Research.
1753. Voluntary participation; confidentiality.
1754. Reports.
[1761 to 1764. Repealed.]

[SUBCHAPTER VII—TRANSFERRED]

[1771 to 1774. Renumbered.]

SUBCHAPTER VIII—HEALTH CARE OF PERSONS OTHER THAN VETERANS

1781. Medical care for survivors and dependents of certain veterans.
1782. Counseling, training, and mental health services for immediate family members.
1783. Bereavement counseling.
1784. Humanitarian care.
1785. Care and services during certain disasters and emergencies.

AMENDMENTS

2004—Pub. L. 108–422, title II, § 201(a)(2), Nov. 30, 2004, 118 Stat. 2382, added item 1744.

2003—Pub. L. 108–7, div. K, title I, § 113(a)(2), Feb. 20, 2003, 117 Stat. 482, struck out item 1729B ''Health Services Improvement Fund''.

2002—Pub. L. 107–287, § 4(a)(2), Nov. 7, 2002, 116 Stat. 2029, added item 1785.

Pub. L. 107–135, title II, §§ 201(b)(2), 208(f)(1), Jan. 23, 2002, 115 Stat. 2457, 2464, substituted ''Limitations'' for ''Restriction on use of funds for assisted suicide, euthanasia, or mercy killing'' in item 1707, struck out item 1713 ''Medical care for survivors and dependents of certain veterans'', substituted ''guide dogs; service dogs'' for ''seeing-eye dogs'' in item 1714, and added item for subchapter VIII and items 1781 to 1784.

2001—Pub. L. 107–95, § 5(g)(1), Dec. 21, 2001, 115 Stat. 918, struck out subchapter VII heading ''TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS'' and items 1771 ''General treatment'', 1772 ''Therapeutic housing'', 1773 ''Additional services at certain locations'', and 1774 ''Coordination with other agencies and organizations''.§

2000—Pub. L. 106–419, title II, § 221(b), Nov. 1, 2000, 114 Stat. 1845, added item 1708.

1999—Pub. L. 106–117, title I, §§ 101(a)(2), (c)(2), 111(b)(2), title II, § 202(b), Nov. 30, 1999, 113 Stat. 1548, 1549, 1556, 1561, added items 1710A, 1710B, 1725, and 1729B.

1998—Pub. L. 105–368, title IX, § 901(b), Nov. 11, 1998, 112 Stat. 3360, added item 1720E.

1997—Pub. L. 105–114, title II, §§ 202(d), 206(b)(3), Nov. 21, 1997, 111 Stat. 2287, 2289, substituted ''Treatment and rehabilitative services for persons with drug or alcohol dependency'' for ''Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities'' in item 1720A, struck out '': pilot program'' after ''home care'' in item 1720C, and added item for subchapter VII and items 1771 to 1774.

Pub. L. 105–33, title VIII, § 8023(a)(2), Aug. 5, 1997, 111 Stat. 667, added item 1729A.

Pub. L. 105–12, § 9(i)(2), Apr. 30, 1997, 111 Stat. 27, added item 1707.

1996—Pub. L. 104–262, title I, §§ 101(c)(2)(B), 104(a)(2), Oct. 9, 1996, 110 Stat. 3179, 3184, added items 1705 and 1706 and substituted ''Dental care; drugs and medicines for certain disabled veterans; vaccines'' for ''Eligibility for outpatient services'' in item 1712.

1994—Pub. L. 103–452, title I, § 101(f)(2)(B), Nov. 2, 1994, 108 Stat. 4784, substituted ''and treatment'' for ''to women veterans'' in item 1720D.

1992—Pub. L. 102–585, title I, § 102(a)(2), title V, §§ 512(b), 514(b), Nov. 4, 1992, 106 Stat. 4946, 4958, added items 1704 and 1720D and struck out subchapter VII heading ''PREVENTIVE HEALTH-CARE SERVICES PILOT PROGRAM'' and items 1761 ''Purpose'', 1762 ''Definition'', 1763 ''Preventive health-care services'', and 1764 ''Reports''.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 601 to 664 as 1701 to 1764, respectively.

Pub. L. 102–83, § 4(a)(5), Aug. 6, 1991, 105 Stat. 404, substituted ''non-Department'' for ''non-Veterans' Administration'' in item 603.

1990—Pub. L. 101–508, title VIII, § 8012(a)(2), Nov. 5, 1990, 104 Stat. 1388–345, added item 622A.

Pub. L. 101–366, title II, § 201(a)(2), Aug. 15, 1990, 104 Stat. 438, added item 620C.

1988—Pub. L. 100–322, title I, §§ 101(h)(2), 115(g)(2), May 20, 1988, 102 Stat. 492, 502, substituted ''Eligibility for outpatient services'' for ''Eligibility for medical treatment'' in item 612, substituted ''Home health services; invalid'' for ''Invalid'' in item 617, and struck out item 620C ''Community based psychiatric residential treatment for chronically mentally ill veterans''.

1987—Pub. L. 100–6, § 2(b), Feb. 12, 1987, 101 Stat. 94, added item 620C.

1986—Pub. L. 99–576, title II, § 201(a)(2), 100 Stat. 3254, added item 620B.

Pub. L. 99–272, title XIX, §§ 19011(c)(2), 19012(b)(2), Apr. 7, 1986, 100 Stat. 378, 382, added item 603, and substituted ''Determination'' for ''Evidence'' and inserted ''; income thresholds'' in item 622.

1985—Pub. L. 99–166, title I, §§ 101(b)(2), 107(b), Dec. 3, 1985, 99 Stat. 943, 946, added item 612B and struck out ''; pilot program'' after ''disabilities'' in item 620A.

1983—Pub. L. 98–160, title I, §§ 103(a)(3), 104(b), Nov. 21, 1983, 97 Stat. 996, 998, inserted ''; adult day health care'' in item 620 and added item 630.

1982—Pub. L. 97–295, § 4(15), Oct. 12, 1982, 96 Stat. 1306, substituted ''Hospital care, medical services, and nursing home care abroad'' for ''Hospital care and medical services abroad'' in item 624.

1981—Pub. L. 97–72, title I, §§ 106(a)(2), 107(c)(2), (d)(2), Nov. 3, 1981, 95 Stat. 1051, 1052, 1053, added item 629, substituted ''HOSPITAL CARE AND MEDICAL TREATMENT FOR VETERANS IN THE REPUBLIC OF THE PHILIPPINES'' for ''HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS'' in item relating to subchapter IV, and substituted ''Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center'' for ''Contracts and grants to provide hospital care, medical services and nursing home care'' in item 632.

1980—Pub. L. 96–330, title IV, § 401(b), Aug. 26, 1980, 94 Stat. 1051, substituted ''Evidence of inability to defray necessary expenses'' for ''Statement under oath'' in item 622.

1979—Pub. L. 96–22, title I, §§ 103(a)(2), 104(b), 105(b), 106(b), June 13, 1979, 93 Stat. 50, 51, 53, added items 612A, 620A, 634, and 661 to 664 and redesignated former item 634 as 635.

1977—Pub. L. 95–62, § 4(b), July 5, 1977, 91 Stat. 263, struck out item 644 ''Authorization of appropriations''.

1976—Pub. L. 94–581, title II, §§ 202(a), 203(b), Oct. 21, 1976, 90 Stat. 2855, 2856, inserted ''NURSING HOME,'' in chapter heading, and, in analysis of subchapter headings and section catchlines, inserted '', NURSING HOME'' in item for subchapter II, inserted '', nursing home'' in item 610, substituted ''Care'' for ''Hospitalization'' in item 611, and inserted ''AND NURSING HOME'' in item for subchapter III.

1973—Pub. L. 93–82, title I, §§ 103(c), 106(b), 107(b), 109(b), Aug. 2, 1973, 87 Stat. 182, 184, 186, 187, substituted ''Medical care for survivors and dependents of certain veterans'' and ''Fitting and training in use of prosthetic appliances; seeing-eye dogs'' for ''Fitting and training in use of prosthetic appliances'' and ''Seeing-eye dogs'' in items 613 and 614 respectively, substituted ''natural disaster'' for ''fire'' in item 626, added item

628, substituted ''Assistance to the Republic of the Philippines'' and ''Contracts and grants to provide hospital care, medical services and nursing home care'' for ''Grants to the Republic of the Philippines'' and ''Modification of agreement with the Republic of the Philippines effectuating the Act of July 1, 1948'' in items 631 and 632, respectively, and added ''SUBCHAPTER VI—SICKLE CELL ANEMIA'' comprising items 651 to 654.

Pub. L. 93–43, § 4(c)(2), June 18, 1973, 87 Stat. 79, struck out item 625 ''Arrests for crimes in hospitals and domiciliary reservations''.

1969—Pub. L. 91–178, § 2(b), Dec. 30, 1969, 83 Stat. 837, added item 644.

1968—Pub. L. 90–493, § 3(b), Aug. 19, 1968, 82 Stat. 809, substituted ''Invalid lifts and other devices'' for ''Invalid lifts and other devices for pensioners'' in item 617.

1964—Pub. L. 88–450, §§ 2(b), 6(b), Aug. 19, 1964, 78 Stat. 500, 504, inserted ''and other devices'' in item 617 and added item 620.

1962—Pub. L. 87–850, § 1(b), Oct. 23, 1962, 76 Stat. 1126, added item 619.

Pub. L. 87–574, § 2(2), Aug. 6, 1962, 76 Stat. 308, added item 618.

1959—Pub. L. 86–211, § 7(b), Aug. 29, 1959, 73 Stat. 436, added item 617.

SUBCHAPTER I—GENERAL

§ 1701. Definitions

For the purposes of this chapter—

(1) The term ''disability'' means a disease, injury, or other physical or mental defect.

(2) The term ''veteran of any war'' includes any veteran awarded the Medal of Honor.

(3) The term ''facilities of the Department'' means—

(A) facilities over which the Secretary has direct jurisdiction;

(B) Government facilities for which the Secretary contracts; and

(C) public or private facilities at which the Secretary provides recreational activities for patients receiving care under section 1710 of this title.

(4) The term ''non-Department facilities'' means facilities other than Department facilities.

(5) The term ''hospital care'' includes—

(A)(i) medical services rendered in the course of the hospitalization of any veteran, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title;

(B) such mental health services, consultation, professional counseling, and training for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 1781(b) of this title; and

(C)(i) medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care under the last sentence of section 1781(b) of this title, and (ii) travel and incidental expenses for such dependent or survivor under the terms and conditions set forth in section 111 of this title.

(6) The term ''medical services'' includes, in addition to medical examination, treatment, and rehabilitative services, the following:

(A) Surgical services.

(B) Dental services and appliances as described in sections 1710 and 1712 of this title.

(C) Optometric and podiatric services.

(D) Preventive health services.

(E) In the case of a person otherwise receiving care or services under this chapter—

(i) wheelchairs, artificial limbs, trusses, and similar appliances;

(ii) special clothing made necessary by the wearing of prosthetic appliances; and

(iii) such other supplies or services as the Secretary determines to be reasonable and necessary.

(F) Travel and incidental expenses pursuant to section 111 of this title.

(7) The term ''domiciliary care'' includes necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title.

(8) The term ''rehabilitative services'' means such professional, counseling, and guidance services and treatment programs as are necessary to restore, to the maximum extent possible, the physical, mental, and psychological functioning of an ill or disabled person.

(9) The term ''preventive health services'' means—

(A) periodic medical and dental examinations;

(B) patient health education (including nutrition education);

(C) maintenance of drug use profiles, patient drug monitoring, and drug utilization education;

(D) mental health preventive services;

(E) substance abuse prevention measures;

(F) immunizations against infectious disease;

(G) prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature;

(H) genetic counseling concerning inheritance of genetically determined diseases;

(I) routine vision testing and eye care services;

(J) periodic reexamination of members of likely target populations (high-risk groups) for selected diseases and for functional decline of sensory organs, together with attendant appropriate remedial intervention; and

(K) such other health-care services as the Secretary may determine to be necessary to provide effective and economical preventive health care.

(10)(A) During the period beginning on November 30, 1999, and ending on December 31, 2008, the term ''medical services'' includes noninstitutional extended care services.

(B) For the purposes of subparagraph (A), the term ''noninstitutional extended care services'' means such alternatives to institutional extended care which the Secretary may furnish (i) directly, (ii) by contract, or (iii) (through provision of case management) by another provider or payor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1141, § 601; Pub. L. 86–598, July 7, 1960, 74 Stat. 335; Pub. L. 86–639, § 2, July 12, 1960, 74 Stat. 472; Pub. L.

88–481, Aug. 22, 1964, 78 Stat. 593; Pub. L. 90–612, § 2, Oct. 21, 1968, 82 Stat. 1202; Pub. L. 93–82, title I, § 101, Aug. 2, 1973, 87 Stat. 179; Pub. L. 94–581, title I, § 102, title II, § 202(b), Oct. 21, 1976, 90 Stat. 2843, 2855; Pub. L. 95–520, § 5, Oct. 26, 1978, 92 Stat. 1820; Pub. L. 96–22, title I, § 102(c), title II, § 201(a), June 13, 1979, 93 Stat. 48, 54; Pub. L. 96–151, title II, §§ 201(b), 202, Dec. 20, 1979, 93 Stat. 1093, 1094; Pub. L. 97–72, title I, § 101, Nov. 3, 1981, 95 Stat. 1047; Pub. L. 97–251, § 4, Sept. 8, 1982, 96 Stat. 716; Pub. L. 98–105, Sept. 30, 1983, 97 Stat. 730; Pub. L. 98–160, title I, § 106(a), Nov. 21, 1983, 97 Stat. 998; Pub. L. 98–528, title I, § 103(a), Oct. 19, 1984, 98 Stat. 2688; Pub. L. 99–108, § 2, Sept. 30, 1985, 99 Stat. 481; Pub. L. 99–166, title I, § 102(a), Dec. 3, 1985, 99 Stat. 943; Pub. L. 99–272, title XIX, §§ 19011(d)(2), 19012(a), Apr. 7, 1986, 100 Stat. 378, 380; Pub. L. 99–576, title II, § 203, Oct. 28, 1986, 100 Stat. 3255; Pub. L. 100–322, title I, § 131, May 20, 1988, 102 Stat. 506; Pub. L. 102–54, § 14(b)(8), June 13, 1991, 105 Stat. 283; renumbered § 1701 and amended Pub. L. 102–83, §§ 4(a)(2)(E), (3)–(5), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–585, title V, § 513, Nov. 4, 1992, 106 Stat. 4958; Pub. L. 103–446, title XII, § 1202(b)(1), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 104–262, title I, §§ 101(d)(1), 103(a), Oct. 9, 1996, 110 Stat. 3179, 3182; Pub. L. 106–117, title I, § 101(b), Nov. 30, 1999, 113 Stat. 1548; Pub. L. 107–135, title II, § 208(a)(1), (e)(2), Jan. 23, 2002, 115 Stat. 2461, 2463; Pub. L. 107–330, title III, § 308(g)(3), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 108–170, title I, §§ 104(a), 106(a), Dec. 6, 2003, 117 Stat. 2044, 2045.)

CODIFICATION

The text of section 1762 of this title, which was transferred to the end of this section, redesignated as par. (9), and amended by Pub. L. 102–585, was based on Pub. L. 96–22, title I, § 105(a), June 13, 1979, 93 Stat. 52, § 662; renumbered § 1762 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.

PRIOR PROVISIONS

Prior sections 1700 and 1701 were renumbered sections 3500 and 3501 of this title, respectively.

AMENDMENTS

2003—Par. (8). Pub. L. 108–170, § 104(a), struck out ''(other than those types of vocational rehabilitation services provided under chapter 31 of this title)'' after ''programs''.

Par. (10)(A). Pub. L. 108–170, § 106(a), substituted ''November 30, 1999, and ending on December 31, 2008,'' for ''the date of the enactment of the Veterans Millennium Health Care and Benefits Act and ending on December 31, 2003,''.

2002—Par. (5). Pub. L. 107–135, § 208(e)(2), substituted ''1781(b)'' for ''1713(b)'' in subpars. (B) and (C)(i).

Par. (6). Pub. L. 107–135, § 208(a)(1)(A), (B), substituted ''services, the following:'' for ''services—'' in introductory provisions and struck out concluding provisions which read as follows: ''For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 1713(b) of this title shall be eligible for the same medical services as a veteran.''

Par. (6)(A). Pub. L. 107–135, § 208(a)(1)(C), added subpar. (A) and struck out former subpar. (A) which read as follows: ''(i) surgical services, dental services and appliances as described in sections 1710 and 1712 of this title, optometric and podiatric services, preventive health services, and (in the case of a person otherwise receiving care or services under this chapter) wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies or services as the Secretary determines to be reasonable and necessary, except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe, and (ii) travel and incidental expenses pursuant to the provisions of section 111 of this title; and''.

Par. (6)(B) to (F). Pub. L. 107–135, § 208(a)(1)(A), (C), added subpars. (B) to (F) and struck out former subpar. (B) which included in the definition of ''medical services'' certain necessary consultation, professional counseling, training, and mental health services.

Par. (10)(A). Pub. L. 107–330, which directed the substitution of ''November 30, 1999,'' for ''the date of the enactment of the Veterans' Millennium Health Care and Benefits Act'', could not be executed because the word ''Veterans' '' did not appear in text.

1999—Par. (10). Pub. L. 106–117 added par. (10).

1996—Par. (6)(A)(i). Pub. L. 104–262, § 103(a), struck out ''(in the case of a person otherwise receiving care or services under this chapter)'' before ''preventive health services,'', substituted ''(in the case of a person otherwise receiving care or services under this chapter)'' for ''(except under the conditions described in section 1712(a)(5)(A) of this title),'', and inserted ''except that the Secretary may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe,'' after ''reasonable and necessary,''.

Par. (6)(B)(i)(I). Pub. L. 104–262, § 101(d)(1)(A), substituted ''paragraph (1) or (2) of section 1710(a)'' for ''section 1712(a)''.

Par. (6)(B)(i)(II). Pub. L. 104–262, § 101(d)(1)(B), substituted ''paragraph (1), (2) or (3) of section 1710(a)'' for ''section 1712(a)(5)(B)''.

1994—Par. (3). Pub. L. 103–446 made technical correction to directory language of Pub. L. 102–83, § 4(a)(2)(E). See 1991 Amendment note below.

1992—Par. (6)(A)(i). Pub. L. 102–585, § 513(b), substituted ''preventive health services,'' for ''preventive health-care services as defined in section 1762 of this title,''.

Par. (9). Pub. L. 102–585, § 513(a), transferred the text of section 1762 of this title to the end of this section and redesignated it as par. (9), substituted ''The term 'preventive health service' means'' for ''For the purposes of this subchapter, the term 'preventive health-care services' means'', and redesignated pars. (1) to (11) as subpars. (A) to (K), respectively. See Codification note above.

1991—Pub. L. 102–83, § 5(a), renumbered section 601 of this title as this section.

Par. (2). Pub. L. 102–54, § 14(b)(8)(A), struck out ''any veteran of the Indian Wars, or'' after ''includes''.

Par. (3). Pub. L. 102–83, § 5(c)(1), substituted ''1710'' for ''610'' in subpar. (C).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in subpars. (A) to (C).

Pub. L. 102–83, § 4(a)(2)(E), as amended by Pub. L. 103–446, substituted ''facilities of the Department'' for ''Veterans' Administration facilities''.

Pub. L. 102–54, § 14(b)(8)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''The term 'period of war' includes each of the Indian Wars.''

Par. (4). Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–54, § 14(b)(8)(E), redesignated par. (9) as (4).

Par. (5). Pub. L. 102–83, § 5(c)(1), substituted ''1713(b)'' for ''613(b)'' in subpars. (B) and (C)(i).

Par. (6). Pub. L. 102–83, § 5(c)(1), in subpar. (A) substituted ''1710 and 1712'' for ''610 and 612'', ''1762'' for ''662'', and ''1712(a)(5)(A)'' for ''612(a)(5)(A)'', in subpar. (B) substituted ''1712(a)'' for ''612(a)'', ''1712(a)(5)(B)'' for ''612(a)(5)(B)'', and ''1713(b)'' for ''613(b)'', and in last sentence substituted ''1713(b)'' for ''613(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–54, § 14(b)(8)(D), substituted ''612(a)(5)(A)'' for ''612(f)(1)(A)(i)'' in subpar. (A)(i) and ''612(a)(5)(B)'' for ''612(f)(1)(A)(ii)'' in subpar. (B)(i)(II).

Par. (9). Pub. L. 102–54, § 14(b)(8)(E), redesignated par. (9) as (4).

1988—Par. (4)(C). Pub. L. 100–322 added subpar. (C).

1986—Par. (4). Pub. L. 99–272, § 19012(a)(1), struck out cl. (C) and provision following such clause, both relating to private facilities under contract as Veterans' Administration facilities.

Par. (6)(A)(i). Pub. L. 99–272, § 19011(d)(2)(A), substituted ''section 612(f)(1)(A)(i)'' for ''section 612(f)(1)(A)''.

Par. (6)(B). Pub. L. 99–576 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment—

''(i) of the service-connected disability of a veteran pursuant to section 612(a) of this title, and

''(ii) in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(A)(ii) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital,

for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran (including, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of such family member or individual in the case of a veteran who is receiving care for a service-connected disability, or in the case of dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title). For the purposes of this paragraph, a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title shall be eligible for the same medical services as a veteran.''

Par. (6)(B)(ii). Pub. L. 99–272, § 19011(d)(2)(B), substituted ''section 612(f)(1)(A)(ii)'' for ''section 612(f)(1)(B)''.

Par. (9). Pub. L. 99–272, § 19012(a)(2), added par. (9).

1985—Par. (4)(C)(v). Pub. L. 99–166, § 102(a), substituted ''with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988'' for ''(except with respect to Alaska and Hawaii) shall expire on October 31, 1985'' and struck out ''and to the Virgin Islands'' before ''of the restrictions in this subclause''.

Pub. L. 99–108 substituted ''October 31, 1985'' for ''September 30, 1985''.

1984—Par. (4)(C)(v). Pub. L. 98–528 substituted ''September 30, 1985'' for ''September 30, 1984''.

1983—Par. (4)(C)(v). Pub. L. 98–105 substituted ''September 30, 1984'' for ''September 30, 1983''.

Par. (6)(a)(i). Pub. L. 98–160 inserted ''(in the case of a person otherwise receiving care or services under this chapter) preventive health-care services as defined in section 662 of this title,''.

1982—Par. (4)(C)(v). Pub. L. 97–251 substituted ''September 30, 1983'' for ''September 30, 1982''.

1981—Par. (4)(C)(v). Pub. L. 97–72 substituted ''September 30, 1982'' for ''December 31, 1981''.

1979—Par. (4). Pub. L. 96–22, §§ 102(c)(1), 201(a), substituted ''medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of the first sentence, or the third sentence, of section 612(f) of this title or of a veteran described in section 612(g) of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in facilities described in clauses (A) and (B) of this paragraph'' for ''medical services for the treatment of any disability of a veteran described in clause (1)(B) or (2) of section 612(f) of this title'' in subcl. (ii) of cl. (C), and added subcl. (vi) of cl. (C) and the provisions following cl. (C) relating to the periodic review of the necessity for continuing contractual arrangements in the case of veterans receiving contract care.

Par. (4)(C)(iii). Pub. L. 96–151, § 202, inserted provisions respecting safe transfer of the veteran, and substituted ''medical services in'' for ''hospital care in''.

Par. (5)(A). Pub. L. 96–151, § 201(b)(1), substituted ''travel'' for ''transportation''.

Par. (5)(C). Pub. L. 96–151, § 201(b)(2), substituted provisions relating to travel and incidental expenses for provisions relating to transportation and incidental expenses.

Par. (6)(A)(i). Pub. L. 96–22, § 102(c)(2), substituted ''described in sections 610 and 612 of this title'' for ''authorized in sections 612 (b), (c), (d), and (e) of this title''.

Par. (6)(B). Pub. L. 96–151, § 201(b)(3), substituted ''travel and incidental expenses'' for ''necessary expenses of travel and subsistence''.

1978—Par. (4)(C)(v). Pub. L. 95–520 defined ''Veterans' Administration facilities'' to include certain private facilities to provide medical services to obviate the need for hospital admission, deleted reference to hospital care for veterans in a territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, substituted provision requiring the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at expense of Veterans' Administration in Government and private facilities in each noncontiguous State to be consistent with patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States for prior requirement that the annually determined average hospital patient load per thousand veteran population hospitalized at Veterans' Administration expense in Government and private facilities in each noncontiguous State not exceed the average patient load per thousand veteran population hospitalized by the Veterans' Administration within the forty-eight contiguous States; extended termination date for exercise of subcl. (v) authority to Dec. 31, 1981, from Dec. 31, 1978, except as to Alaska and Hawaii, and authorized waiver by the Administrator, to prevent hardship, of applicability to Puerto Rico and Virgin Islands of subcl. (v) restrictions with respect to hospital patient loads and incidence of provision of medical services.

1976—Par. (4)(A). Pub. L. 94–581, § 202(b)(1), substituted ''direct jurisdiction'' for ''direct and exclusive jurisdiction''.

Par. (4)(C). Pub. L. 94–581, § 202(b)(2), inserted ''when facilities described in clause (A) or (B) of this paragraph are not capable of furnishing economical care because of geographical inaccessibility or of furnishing the care or services required'' after ''contracts'' in provisions preceding subcl. (i), substituted ''to a veteran for the treatment of a service-connected disability or a disability for which a veteran was discharged'' for ''for persons suffering from service-connected disabilities or from disabilities for which such persons were discharged'' in subcl. (i), added subcls. (ii) and (iii), redesignated former subcls. (ii) and (iii) as (iv) and (v), respectively, and in subcl. (v) as so redesignated, substituted ''subclause (v)'' for ''clause (iii)''.

Par. (5)(A)(ii). Pub. L. 94–581, § 202(b)(3), substituted ''pursuant to the provisions of section 111 of this title'' for ''for any veteran who is in need of treatment for a service-connected disability or who is unable to defray the expense of transportation''.

Par. (5)(B). Pub. L. 94–581, § 102(1), substituted ''for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of a veteran or dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this

title; and'' for ''(including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title, under the terms and conditions set forth in section 111 of this title) of the members of the immediate family (including legal guardians) of a veteran or such a dependent or survivor of a veteran, or in the case of a veteran or such dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such veteran, or such a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or such a dependent or a survivor of a veteran; and''.

Par. (6). Pub. L. 94–581, § 102(2), expanded definition of ''medical services'' to include rehabilitation services, podiatric services, and travel and incidental expenses pursuant to the provisions of section 111 of this title, and, for the members of the immediate family or legal guardian of a veteran, or the individual in whose household such veteran certifies an intention to live, as may be essential to the effective treatment and rehabilitation of the veteran, such consultation, professional counseling, training, and mental health services as are necessary in connection with the treatment of the service-connected disability of a veteran pursuant to section 612(a) of this title, and, in the discretion of the Administrator, of the non-service-connected disability of a veteran eligible for treatment under section 612(f)(1)(B) of this title where such services were initiated during the veteran's hospitalization and the provision of such services on an outpatient basis is essential to permit the discharge of the veteran from the hospital.

Par. (7). Pub. L. 94–581, § 102(3), substituted ''necessary medical services and travel and incidental expenses pursuant to the provisions of section 111 of this title'' for ''transportation and incidental expenses for veterans who are unable to defray the expenses of transportation''.

Par. (8). Pub. L. 94–581, § 102(4), added par. (8).

1973—Par. (4)(C). Pub. L. 93–82, § 101(a), extended the Administrator's contract authority for providing hospital care and medical services to persons suffering from service-connected disabilities or from disabilities for which such persons were discharged or released from the active military, naval, or air service and removed the limitation on such authority that such care be rendered in emergency cases only.

Par. (5). Pub. L. 93–82, § 101(b), incorporated existing provisions in subpar. (A) and added subpars. (B) and (C).

Par. (6). Pub. L. 93–82, § 101(c), expanded definition of ''medical services'' to include home health services determined by the Secretary to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran receiving care under section 613(b) of this title.

1968—Par. (4)(C)(iii). Pub. L. 90–612 expanded category of veterans of wars in the Territories, Commonwealths, or possessions of the United States to include, until December 31, 1978, veterans of such wars in States not contiguous to the forty-eight contiguous States, with the annually determined average hospital patient load per thousand of hospitalized veteran population in each such noncontiguous States not to exceed the average within the forty-eight contiguous States.

1964—Par. (2). Pub. L. 88–481 included any veteran awarded the Medal of Honor.

1960—Par. (6). Pub. L. 86–639 inserted ''(except under the conditions described in section 612(f)(1))''.

Pub. L. 86–598 inserted ''optometrists' services'' after ''medical examination and treatment''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(b) of Pub. L. 103–446 provided that the amendment made by that section is effective Aug. 6, 1991, and as if included in the enactment of Pub. L. 102–83.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 19011(d)(2) of Pub. L. 99–272 applicable to hospital care, nursing home care, and medical services furnished on or after July 1, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–151 effective Jan. 1, 1980, see section 206 of Pub. L. 96–151, set out as a note under section 111 of this title.

Section 107 of Pub. L. 96–22 provided that: ''The amendments made to title 38, United States Code, by sections 102, 103, 104, 105, and 106 of this Act [see Tables for classification] shall be effective on October 1, 1979.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 501 of Pub. L. 93–82 provided that: ''The provisions of this Act [see Tables for classification] shall become effective the first day of the first calendar month following the date of enactment [Aug. 2, 1973], except that sections 105 and 106 [amending section 626 [now 1726] of this title and enacting section 628 [now 1728] of this title] shall be effective on January 1, 1971; section 107 [enacting sections 631 and 632 [now 1731 and 1732] of this title and provisions set out as note under section 1732 of this title] shall be effective July 1, 1973; and section 203 [amending former section 4107 of this title] shall become effective beginning the first pay period following thirty days after the date of enactment of this Act [Aug. 2, 1973].''

GUIDELINES RELATING TO FURNISHING OF SENSORI-NEURAL AIDS

Section 103(b) of Pub. L. 104–262 provided that: ''Not later than 30 days after the date of the enactment of this Act [Oct. 9, 1996], the Secretary of Veterans Affairs shall prescribe the guidelines required by the amendments made by subsection (a) [amending this section] and shall furnish a copy of those guidelines to the Committees on Veterans' Affairs of the Senate and House of Representatives.''

STUDY OF FEASIBILITY AND ADVISIBILITY OF ALTERNATIVE ORGANIZATIONAL STRUCTURES FOR EFFECTIVE PROVISION OF HEALTH CARE SERVICES TO VETERANS

Section 1104 of Pub. L. 103–446 directed Secretary of Veterans Affairs to submit to Congress, not later than one year after Nov. 2, 1994, report and study on feasibility and advisability of alternative organizational structures, such as the establishment of a wholly-owned Government corporation or a Government-sponsored enterprise, for the effective provision of health care services to veterans.

CONTRACT HEALTH CARE; RATIFICATION OF ACTION OF ADMINISTRATOR OF VETERANS' AFFAIRS

Section 103(b) of Pub. L. 98–528 ratified actions by Administrator of Veterans' Affairs in entering into contracts applicable to the period beginning Oct. 1, 1984, and ending Oct. 19, 1984, for care described in par. (4)(C)(v) of this section and in making waivers described in that provision.

ADMINISTRATION CAPABILITY TO PROVIDE APPROPRIATE CARE FOR GENDER-SPECIFIC DISABILITIES OF WOMEN VETERANS

Section 302 of Pub. L. 98–160, as amended by Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, §§ 5(c)(2), 6(f), Aug. 6, 1991, 105 Stat. 406,

407, provided that: ''The Secretary of Veterans Affairs shall ensure that each health-care facility under the direct jurisdiction of the Secretary is able, through services made available either by individuals appointed to positions in the Veterans Health Administration or under contracts or other agreements made under section 4117 [see 7409], 8111, or 8153 of title 38, United States Code, to provide appropriate care, in a timely fashion, for any gender-specific disability (as defined in section 1701(1) of such title) of a woman veteran eligible for such care under chapter 17 or chapter 31 of such title.''

ANNUAL REPORT TO CONGRESS COVERING CONTRACT-CARE PROGRAMS

Section 201(b) of Pub. L. 96–22, which directed Chief Medical Director of the Veterans' Administration to report to appropriate committees of Congress, not later than Feb. 1, 1980, and annually thereafter, on implementation of former par. (4)(C)(v) of this section and amendments made to this section by section 201 of Pub. L. 96–22, and on numbers of veterans provided contract treatment (and average cost and duration thereof) in each State in certain enumerated categories, was repealed by Pub. L. 100–322, title I, § 112(b), May 20, 1988, 102 Stat. 499.

HOSPITAL CARE AND MEDICAL SERVICES FURNISHED BY VETERANS' ADMINISTRATION IN PUERTO RICO AND VIRGIN ISLANDS; REPORT TO PRESIDENT AND CONGRESS

Section 8 of Pub. L. 95–520, as amended by Pub. L. 96–330, title IV, § 407, Aug. 26, 1980, 94 Stat. 1053, directed Administrator of Veterans' Affairs, not later than Feb. 1, 1981, to submit a report to President and Congress on furnishing by Administration of hospital care and medical services in Puerto Rico and Virgin Islands, and set forth applicable criteria and considerations for the report.

§ 1702. Presumption relating to psychosis

For the purposes of this chapter, any veteran of World War II, the Korean conflict, the Vietnam era, or the Persian Gulf War who developed an active psychosis (1) within two years after discharge or release from the active military, naval, or air service, and (2) before July 26, 1949, in the case of a veteran of World War II, before February 1, 1957, in the case of a veteran of the Korean conflict, before May 8, 1977, in the case of a Vietnam era veteran, or before the end of the two-year period beginning on the last day of the Persian Gulf War, in the case of a veteran of the Persian Gulf War, shall be deemed to have incurred such disability in the active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1141, § 602; Pub. L. 90–77, title II, § 203(a), Aug. 31, 1967, 81 Stat. 183; Pub. L. 97–295, § 4(16), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 99–576, title VII, § 701(20), Oct. 28, 1986, 100 Stat. 3292; Pub. L. 102–25, title III, § 334(b), Apr. 6, 1991, 105 Stat. 88; renumbered § 1702, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 602 of this title as this section.

Pub. L. 102–25 substituted ''the Vietnam era, or the Persian Gulf War'' for ''or the Vietnam era'', struck out ''or'' before ''before May 8, 1977'', and inserted ''or before the end of the two-year period beginning on the last day of the Persian Gulf War, in the case of a veteran of the Persian Gulf War,'' after ''Vietnam era veterans,''.

1986—Pub. L. 99–576 struck out ''his'' before ''discharge''.

1982—Pub. L. 97–295 substituted ''before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977,'' for ''or February 1, 1957, in the case of a veteran of the Korean conflict, or before the expiration of two years following termination of the Vietnam era''.

1967—Pub. L. 90–77 made the presumption relating to psychosis applicable to any veteran of the Vietnam era who developed an active psychosis within two years after his discharge from active service and before the expiration of two years following termination of the Vietnam era.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 1703. Contracts for hospital care and medical services in non-Department facilities

(a) When Department facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Secretary, as authorized in section 1710 of this title, may contract with non-Department facilities in order to furnish any of the following:

(1) Hospital care or medical services to a veteran for the treatment of—

(A) a service-connected disability;

(B) a disability for which a veteran was discharged or released from the active military, naval, or air service; or

(C) a disability of a veteran who has a total disability permanent in nature from a service-connected disability.

(2) Medical services for the treatment of any disability of—

(A) a veteran described in section 1710(a)(1)(B) of this title;

(B) a veteran who (i) has been furnished hospital care, nursing home care, domiciliary care, or medical services, and (ii) requires medical services to complete treatment incident to such care or services; or

(C) a veteran described in section 1710(a)(2)(E) of this title, or a veteran who is in receipt of increased pension, or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance), if the Secretary has determined, based on an examination by a physician employed by the Department (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Department facilities.

(3) Hospital care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Department facility or nursing home care under section 1720 of this title until such time following

the furnishing of care in the non-Department facility as the veteran can be safely transferred to a Department facility.

(4) Hospital care for women veterans.

(5) Hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State (other than the Commonwealth of Puerto Rico) not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Department in Government and non-Department facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Department within the 48 contiguous States and the Commonwealth of Puerto Rico.

(6) Diagnostic services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Department out-patient clinics to obviate the need for hospital admission.

(7) Outpatient dental services and treatment, and related dental appliances, for a veteran described in section 1712(a)(1)(F) of this title.

(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Secretary.

(b) In the case of any veteran for whom the Secretary contracts to furnish care or services in a non-Department facility pursuant to a provision of subsection (a) of this section, the Secretary shall periodically review the necessity for continuing such contractual arrangement pursuant to such provision.

(c) The Secretary shall include in the budget documents which the Secretary submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 1712A, 1720, 1720A, 1724, and 1732 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322; 102 Stat. 501).

(d)(1) The Secretary shall conduct a program of recovery audits for fee basis contracts and other medical services contracts for the care of veterans under this section, and for beneficiaries under sections 1781, 1782, and 1783 of this title, with respect to overpayments resulting from processing or billing errors or fraudulent charges in payments for non-Department care and services. The program shall be conducted by contract.

(2) Amounts collected, by setoff or otherwise, as the result of an audit under the program conducted under this subsection shall be available for the purposes for which funds are currently available to the Secretary for medical care and for payment to a contractor of a percentage of the amount collected as a result of an audit carried out by the contractor.

(3) The Secretary shall allocate all amounts collected under this subsection with respect to a designated geographic service area of the Veterans Health Administration, net of payments to the contractor, to that region.

(4) The authority of the Secretary under this subsection terminates on September 30, 2008.

(Added Pub. L. 99–272, title XIX, § 19012(b)(1), Apr. 7, 1986, 100 Stat. 380, § 603; amended Pub. L. 99–166, title I, § 102(b)(1), Dec. 3, 1985, 99 Stat. 943; Pub. L. 99–272, title XIX, § 19012(c)(5)(A), Apr. 7, 1986, 100 Stat. 382; Pub. L. 100–322, title I, §§ 101(e)(3), 104, 112(a), May 20, 1988, 102 Stat. 492, 493, 499; Pub. L. 100–687, div. B, title XV, § 1503(a)(1), Nov. 18, 1988, 102 Stat. 4133; Pub. L. 102–54, § 14(b)(9), June 13, 1991, 105 Stat. 283; renumbered § 1703 and amended Pub. L. 102–83, §§ 4(a)(1), (3)–(5), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–585, title V, § 501, Nov. 4, 1992, 106 Stat. 4955; Pub. L. 104–262, title I, § 104(b), Oct. 9, 1996, 110 Stat. 3184; Pub. L. 108–422, title VI, § 601, Nov. 30, 2004, 118 Stat. 2396.)

REFERENCES IN TEXT

Section 115 of the Veterans' Benefits and Services Act of 1988, referred to in subsec. (c), is set out as a note under section 1712 of this title.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–422 added subsec. (d).

1996—Subsec. (a). Pub. L. 104–262, § 104(b)(1), struck out ''or 1712'' after '', as authorized in section 1710'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 104–262, § 104(b)(2)(A), substituted ''1710(a)(1)(B)'' for ''1712(a)(1)(B)''.

Subsec. (a)(2)(B). Pub. L. 104–262, § 104(b)(2)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: ''a veteran described in paragraph (2), (3), or (4) of section 1712(a) of this title, for a purpose described in section 1712(a)(5)(B) of this title;''.

Subsec. (a)(2)(C). Pub. L. 104–262, § 104(b)(2)(C), substituted ''section 1710(a)(2)(E) of this title, or a veteran who is in receipt of increased pension, or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance),'' for ''section 1712(a)(3) (other than a veteran who is a former prisoner of war) of this title''.

Subsec. (a)(7). Pub. L. 104–262, § 104(b)(3), substituted ''1712(a)(1)(F)'' for ''1712(b)(1)(F)''.

1992—Subsec. (a)(1)(C). Pub. L. 102–585 added subpar. (C).

1991—Pub. L. 102–83, § 5(a), renumbered section 603 of this title as this section.

Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration'' in section catchline.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1710 or 1712'' for ''610 or 612'' in introductory provisions, ''1712(a)(1)(B)'' for ''612(a)(1)(B)'' in par. (2)(A), ''1712(a)'' for ''612(a)'' and ''1712(a)(5)(B)'' for ''612(a)(5)(B)'' in par. (2)(B), ''1712(a)(3)'' for ''612(a)(3)'' in par. (2)(C), ''1720'' for ''620'' in par. (3), and ''1712(b)(1)(F)'' for ''612(b)(1)(F)'' in par. (7).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and in par. (2)(C).

Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration'' in introductory provisions and in pars. (3) and (5).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing in introductory provisions and pars. (2), (3), (5), and (6).

Subsec. (a)(2)(B). Pub. L. 102–54, § 14(b)(9)(A), struck out ''section'' before ''paragraph''.

Subsec. (a)(7). Pub. L. 102–54, § 14(b)(9)(B), substituted ''section 612(b)(1)(F)'' for ''section 612(b)(1)(G)''.

Subsec. (a)(8). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1712A, 1720, 1720A, 1724, and 1732'' for ''612A, 620, 620A, 624, and 632''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–54, § 14(b)(9)(C), inserted before period at end ''(Public Law 100–322; 102 Stat. 501)''.

1988—Subsec. (a). Pub. L. 100–322, § 104(b)(1), substituted ''furnish any of the following:'' for ''furnish—''.

Subsec. (a)(1). Pub. L. 100–322, § 104(b)(2), (3), substituted ''Hospital'' for ''hospital'' and the period for semicolon at end.

Subsec. (a)(2). Pub. L. 100–322, § 104(b)(2), (3), substituted ''Medical'' for ''medical'' and the period for semicolon at end.

Subsec. (a)(2)(B). Pub. L. 100–687 substituted ''paragraph (2), (3), or (4) of section 612(a)'' for ''612(a)(4)'', and ''612(a)(5)(B)'' for ''612(a)(5)''.

Pub. L. 100–322, § 101(e)(3)(A), substituted ''section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title'' for ''section 612(f)(1)(A)(ii) of this title''.

Subsec. (a)(2)(C). Pub. L. 100–322, § 101(e)(3)(B), substituted ''section 612(a)(3) (other than a veteran who is a former prisoner of war)'' for ''section 612(g)''.

Subsec. (a)(3). Pub. L. 100–322, § 104(a)(1), (b)(2), (3), substituted ''Hospital'' for ''hospital'', inserted ''or nursing home care under section 620 of this title'', and substituted the period for semicolon at end.

Subsec. (a)(4), (5). Pub. L. 100–322, § 104(b)(2), (3), substituted ''Hospital'' for ''hospital'' and the period for semicolon at end.

Subsec. (a)(6). Pub. L. 100–322, § 104(b)(2), (4), substituted ''Diagnostic'' for ''diagnostic'' and the period for ''; or''.

Subsec. (a)(7). Pub. L. 100–322, § 104(b)(2), substituted ''Outpatient'' for ''outpatient''.

Subsec. (a)(8). Pub. L. 100–322, § 104(a)(2), added par. (8).

Subsec. (c). Pub. L. 100–322, § 112(a), added subsec. (c).

1986—Subsec. (a)(5). Pub. L. 99–272, § 19012(c)(5)(A), made conforming amendment to Pub. L. 99–166, § 102(b)(1). See 1985 Amendment note below.

1985—Subsec. (a)(5). Pub. L. 99–166, § 102(b)(1), as amended by Pub. L. 99–272, § 19012(c)(5)(A), inserted ''(other than the Commonwealth of Puerto Rico)'' after ''in a State'' and substituted ''contiguous States and the Commonwealth of Puerto Rico'' for ''contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico of the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical services''.

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 1503(b) of Pub. L. 100–687 provided that: ''The amendments made by subsection (a)(1) [amending this section] shall apply with respect to the furnishing of medical services by contract to veterans who apply to the Veterans' Administration for medical services after June 30, 1988.''

Section 101(i) of Pub. L. 100–322 provided that: ''The amendments made by this section [amending this section and sections 612 and 617 [now 1712 and 1717] of this title] shall apply with respect to the furnishing of medical services to veterans who apply for such services after June 30, 1988.''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 102(b)(1) of Pub. L. 99–166, as amended by Pub. L. 99–272, title XIX, § 19012(c)(5)(A), Apr. 7, 1986, 100 Stat. 382, provided that the amendment made by that section is effective Oct. 1, 1988.

RATIFICATION OF MEDICAL SERVICES CONTRACTS

Section 1503(c) of Pub. L. 100–687 ratified actions of the Administrator in contracting with facilities other than Veterans' Administration facilities for furnishing medical services incident to treatment of certain veterans receiving hospital, nursing home, or domiciliary care, who applied for such services during the period beginning July 1, 1988, and ending Nov. 18, 1988.

PUERTO RICO CONTRACT CARE; LIMITATION ON INCURRING OF OBLIGATIONS

Section 102(b)(2)–(5) of Pub. L. 99–166, as amended by Pub. L. 99–272, title XIX, § 19012(c)(5)(B), Apr. 7, 1986, 100 Stat. 382, limited Administrator's authority to incur obligations for medical services for veterans residing in Puerto Rico during fiscal years 1986 to 1988.

§ 1704. Preventive health services: annual report

Not later than October 31 each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on preventive health services. Each such report shall include the following:

(1) A description of the programs and activities of the Department with respect to preventive health services during the preceding fiscal year, including a description of the following:

(A) The programs conducted by the Department—

(i) to educate veterans with respect to health promotion and disease prevention; and

(ii) to provide veterans with preventive health screenings and other clinical services, with such description setting forth the types of resources used by the Department to conduct such screenings and services and the number of veterans reached by such screenings and services.

(B) The means by which the Secretary addressed the specific preventive health services needs of particular groups of veterans (including veterans with service-connected disabilities, elderly veterans, low-income veterans, women veterans, institutionalized veterans, and veterans who are at risk for mental illness).

(C) The manner in which the provision of such services was coordinated with the activities of the Medical and Prosthetic Research Service of the Department and the National Center for Preventive Health.

(D) The manner in which the provision of such services was integrated into training programs of the Department, including initial and continuing medical training of medical students, residents, and Department staff.

(E) The manner in which the Department participated in cooperative preventive health efforts with other governmental and private entities (including State and local health promotion offices and not-for-profit organizations).

(F) The specific research carried out by the Department with respect to the long-term relationships among screening activities, treatment, and morbidity and mortality outcomes.

(G) The cost effectiveness of such programs and activities, including an explanation of the means by which the costs and benefits (including the quality of life of veterans who participate in such programs and activities) of such programs and activities are measured.

(2) A specific description of research activities on preventive health services carried out during that period using employees, funds, equipment, office space, or other support services of the Department, with such description setting forth—

(A) the source of funds for those activities;

(B) the articles or publications (including the authors of the articles and publications) in which those activities are described;

(C) the Federal, State, or local governmental entity or private entity, if any, with which such activities were carried out; and

(D) the clinical, research, or staff education projects for which funding applications were submitted (including the source of the funds applied for) and upon which a decision is pending or was denied.

(3) An accounting of the expenditure of funds during that period by the National Center for Preventive Health under section 7318 of this title.

(Added Pub. L. 102–585, title V, § 512(a), Nov. 4, 1992, 106 Stat. 4957.)

§ 1705. Management of health care: patient enrollment system

(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary, in accordance with regulations the Secretary shall prescribe, shall establish and operate a system of annual patient enrollment. The Secretary shall manage the enrollment of veterans in accordance with the following priorities, in the order listed:

(1) Veterans with service-connected disabilities rated 50 percent or greater.

(2) Veterans with service-connected disabilities rated 30 percent or 40 percent.

(3) Veterans who are former prisoners of war or who were awarded the Purple Heart, veterans with service-connected disabilities rated 10 percent or 20 percent, and veterans described in subparagraphs (B) and (C) of section 1710(a)(2) of this title.

(4) Veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound and other veterans who are catastrophically disabled.

(5) Veterans not covered by paragraphs (1) through (4) who are unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(6) All other veterans eligible for hospital care, medical services, and nursing home care under section 1710(a)(2) of this title.

(7) Veterans described in section 1710(a)(3) of this title who are eligible for treatment as a low-income family under section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)) for the area in which such veterans reside, regardless of whether such veterans are treated as single person families under paragraph (3)(A) of such section 3(b) or as families under paragraph (3)(B) of such section 3(b).

(8) Veterans described in section 1710(a)(3) of this title who are not covered by paragraph (7).

(b) In the design of an enrollment system under subsection (a), the Secretary—

(1) shall ensure that the system will be managed in a manner to ensure that the provision of care to enrollees is timely and acceptable in quality;

(2) may establish additional priorities within each priority group specified in subsection (a), as the Secretary determines necessary; and

(3) may provide for exceptions to the specified priorities where dictated by compelling medical reasons.

(c)(1) The Secretary may not provide hospital care or medical services to a veteran under paragraph (2) or (3) of section 1710(a) of this title unless the veteran enrolls in the system of patient enrollment established by the Secretary under subsection (a).

(2) The Secretary shall provide hospital care and medical services under section 1710(a)(1) of this title, and under subparagraph (B) of section 1710(a)(2) of this title, for the 12-month period following such veteran's discharge or release from service, to any veteran referred to in such sections for a disability specified in the applicable subparagraph of such section, notwithstanding the failure of the veteran to enroll in the system of patient enrollment referred to in subsection (a) of this section.

(Added Pub. L. 104–262, title I, § 104(a)(1), Oct. 9, 1996, 110 Stat. 3182; amended Pub. L. 106–117, title I, § 112(2), Nov. 30, 1999, 113 Stat. 1556; Pub. L. 107–135, title II, § 202(a), Jan. 23, 2002, 115 Stat. 2457; Pub. L. 107–330, title III, § 308(g)(4), Dec. 6, 2002, 116 Stat. 2828.)

AMENDMENTS

2002—Subsec. (a)(7), (8). Pub. L. 107–135 added pars. (7) and (8) and struck out former par. (7) which read as follows: "Veterans described in section 1710(a)(3) of this title."

Subsec. (c)(1). Pub. L. 107–330 substituted "The Secretary" for "Effective on October 1, 1998, the Secretary".

1999—Subsec. (a)(3). Pub. L. 106–117 inserted "or who were awarded the Purple Heart" after "former prisoners of war".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–135, title II, § 202(c), Jan. 23, 2002, 115 Stat. 2457, provided that: "The amendments made by this section [amending this section and section 1710 of this title] shall take effect on October 1, 2002."

ASSESSMENT OF IMPLEMENTATION AND OPERATION OF AMENDMENTS BY PUB. L. 104–262

Section 106 of title I of Pub. L. 104–262 provided that:

"(a) ASSESSMENT SYSTEMS.—The Secretary of Veterans Affairs shall establish information systems to assess the experience of the Department of Veterans Affairs in implementing sections 101, 103, and 104 [enacting this section and section 1706 of this title, amending sections 1525, 1701, 1703, 1710, 1712, 1712A, 1717, 1718, 1720, 1722, 1729, 2104, 5317, 8110, and 8111A of this title, and enacting provisions set out as a note under section 1701 of

this title], including the amendments made by those sections, during fiscal year 1997. The Secretary shall establish those information systems in time to include assessments under such systems in the report required under subsection (b).

''(b) REPORT.—Not later than March 1, 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report reflecting the experience of the Department during fiscal year 1997 on—

''(1) the effect of implementation of, and provision and management of care under, sections 101, 103, and 104 (including the amendments made by those sections) on demand for health care services from the Department of Veterans Affairs by veterans described in paragraphs (1), (2), and (3) of section 1710(a) of title 38, United States Code, as amended by section 101;

''(2) any differing patterns of demand on the part of such veterans relating to such factors as relative distance from Department facilities and prior experience, or lack of experience, as recipients of care from the Department;

''(3) the extent to which the Department has met such demand for care; and

''(4) changes in health-care delivery patterns in Department facilities and the fiscal impact of such changes.

''(c) MATTERS TO BE INCLUDED.—The report under subsection (b) shall include detailed information with respect to fiscal year 1997 regarding the following:

''(1) The number of veterans enrolled for care at each Department medical facility and, of such veterans, the number enrolled at each such facility who had not received care from the Department during the preceding three fiscal years.

''(2) With respect to the veterans who had not received care from the Department during the three preceding fiscal years, the total cost of providing care to such veterans, shown in total and separately (A) by level of care, and (B) by reference to whether care was furnished in Department facilities or under contract arrangements.

''(3) With respect to the number of veterans described in paragraphs (1), (2), and (3) of section 1710(a) of title 38, United States Code, as amended by section 101, who applied for health care from the Department during fiscal year 1997—

''(A) the number who applied for care (shown in total and separately by facility);

''(B) the number who were denied enrollment (shown in total and separately by facility); and

''(C) the number who were denied care which was considered to be medically necessary but not of an emergency nature (shown in total and separately by facility).

''(4) The numbers and characteristics of, and the type and extent of health care furnished to, veterans enrolled for care (shown in total and separately by facility).

''(5) The numbers and characteristics of, and the type and extent of health care furnished to, veterans not enrolled for care (shown separately by reference to each class of eligibility, both in total and separately by facility).

''(6) The specific fiscal impact (shown in total and by geographic health-care delivery areas) of changes in delivery patterns instituted under the amendments made by this title [enacting this section and section 1706 of this title and amending sections 1525, 1701, 1703, 1710, 1712, 1712A, 1717, 1718, 1720, 1722, 1729, 2104, 5317, 8110, and 8111A of this title].''

§ 1706. Management of health care: other requirements

(a) In managing the provision of hospital care and medical services under section 1710(a) of this title, the Secretary shall, to the extent feasible, design, establish and manage health care programs in such a manner as to promote cost-effective delivery of health care services in the most clinically appropriate setting.

(b)(1) In managing the provision of hospital care and medical services under such section, the Secretary shall ensure that the Department (and each geographic service area of the Veterans Health Administration) maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) within distinct programs or facilities of the Department that are dedicated to the specialized needs of those veterans in a manner that (A) affords those veterans reasonable access to care and services for those specialized needs, and (B) ensures that overall capacity of the Department (and each geographic service area of the Veterans Health Administration) to provide such services is not reduced below the capacity of the Department, nationwide, to provide those services, as of October 9, 1996. The Secretary shall carry out this paragraph in consultation with the Advisory Committee on Prosthetics and Special Disabilities Programs and the Committee on Care of Severely Chronically Mentally Ill Veterans.

(2) For purposes of paragraph (1), the capacity of the Department (and each geographic service area of the Veterans Health Administration) to provide for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, traumatic brain injury, blindness, prosthetics and sensory aids, and mental illness) within distinct programs or facilities shall be measured for seriously mentally ill veterans as follows (with all such data to be provided by geographic service area and totaled nationally):

(A) For mental health intensive community-based care, the number of discrete intensive care teams constituted to provide such intensive services to seriously mentally ill veterans and the number of veterans provided such care.

(B) For opioid substitution programs, the number of patients treated annually and the amounts expended.

(C) For dual-diagnosis patients, the number treated annually and the amounts expended.

(D) For substance-use disorder programs—

(i) the number of beds (whether hospital, nursing home, or other designated beds) employed and the average bed occupancy of such beds;

(ii) the percentage of unique patients admitted directly to outpatient care during the fiscal year who had two or more additional visits to specialized outpatient care within 30 days of their first visit, with a comparison from 1996 until the date of the report;

(iii) the percentage of unique inpatients with substance-use disorder diagnoses treated during the fiscal year who had one or more specialized clinic visits within three days of their index discharge, with a comparison from 1996 until the date of the report;

(iv) the percentage of unique outpatients seen in a facility or geographic service area

during the fiscal year who had one or more specialized clinic visits, with a comparison from 1996 until the date of the report; and

(v) the rate of recidivism of patients at each specialized clinic in each geographic service area of the Veterans Health Administration.

(E) For mental health programs, the number and type of staff that are available at each facility to provide specialized mental health treatment, including satellite clinics, outpatient programs, and community-based outpatient clinics, with a comparison from 1996 to the date of the report.

(F) The number of such clinics providing mental health care, the number and type of mental health staff at each such clinic, and the type of mental health programs at each such clinic.

(G) The total amounts expended for mental health during the fiscal year.

(3) For purposes of paragraph (1), the capacity of the Department (and each geographic service area of the Veterans Health Administration) to provide for the specialized treatment and rehabilitative needs of disabled veterans within distinct programs or facilities shall be measured for veterans with spinal cord dysfunction, traumatic brain injury, blindness, or prosthetics and sensory aids as follows (with all such data to be provided by geographic service area and totaled nationally):

(A) For spinal cord injury and dysfunction specialized centers and for blind rehabilitation specialized centers, the number of staffed beds and the number of full-time equivalent employees assigned to provide care at such centers.

(B) For prosthetics and sensory aids, the annual amount expended.

(C) For traumatic brain injury, the number of patients treated annually and the amounts expended.

(4) In carrying out paragraph (1), the Secretary may not use patient outcome data as a substitute for, or the equivalent of, compliance with the requirement under that paragraph for maintenance of capacity.

(5)(A) Not later than April 1 of each year through 2004, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's compliance, by facility and by service-network, with the requirements of this subsection. Each such report shall include information on recidivism rates associated with substance-use disorder treatment.

(B) In preparing each report under subparagraph (A), the Secretary shall use standardized data and data definitions.

(C) Each report under subparagraph (A) shall be audited by the Inspector General of the Department, who shall submit to Congress a certification as to the accuracy of each such report.

(6)(A) To ensure compliance with paragraph (1), the Under Secretary for Health shall prescribe objective standards of job performance for employees in positions described in subparagraph (B) with respect to the job performance of those employees in carrying out the requirements of paragraph (1). Those job performance standards shall include measures of workload, allocation of resources, and quality-of-care indicators.

(B) Positions described in this subparagraph are positions in the Veterans Health Administration that have responsibility for allocating and managing resources applicable to the requirements of paragraph (1).

(C) The Under Secretary shall develop the job performance standards under subparagraph (A) in consultation with the Advisory Committee on Prosthetics and Special Disabilities Programs and the Committee on Care of Severely Chronically Mentally Ill Veterans.

(c) The Secretary shall ensure that each primary care health care facility of the Department develops and carries out a plan to provide mental health services, either through referral or direct provision of services, to veterans who require such services.

(Added Pub. L. 104–262, title I, § 104(a)(1), Oct. 9, 1996, 110 Stat. 3183; amended Pub. L. 105–368, title IX, § 903(a), title X, § 1005(b)(2), Nov. 11, 1998, 112 Stat. 3360, 3365; Pub. L. 107–95, § 8(a), Dec. 21, 2001, 115 Stat. 919; Pub. L. 107–135, title II, § 203, Jan. 23, 2002, 115 Stat. 2458.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–135, § 203(a)(1), inserted "(and each geographic service area of the Veterans Health Administration)" after "ensure that the Department" in introductory provisions and "(and each geographic service area of the Veterans Health Administration)" after "overall capacity of the Department" in cl. (B).

Subsec. (b)(2) to (4). Pub. L. 107–135, § 203(a)(3), added pars. (2) to (4). Former pars. (2) and (3) redesignated (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 107–135, § 203(a)(2), (b), redesignated par. (2) as (5), inserted "(A)" before "Not later than", substituted "April 1 of each year through 2004" for "April 1, 1999, April 1, 2000, and April 1, 2001", inserted at end of subpar. (A) "Each such report shall include information on recidivism rates associated with substance-use disorder treatment.", and added subpars. (B) and (C).

Subsec. (b)(6). Pub. L. 107–135, § 203(a)(2), redesignated par. (3) as (6).

2001—Subsec. (c). Pub. L. 107–95 added subsec. (c).

1998—Subsec. (b)(1). Pub. L. 105–368, § 1005(b)(2), substituted "October 9, 1996" for "the date of the enactment of this section".

Subsec. (b)(2). Pub. L. 105–368, § 903(a)(1), substituted "April 1, 1999, April 1, 2000, and April 1, 2001" for "April 1, 1997, April 1, 1998, and April 1, 1999".

Subsec. (b)(3). Pub. L. 105–368, § 903(a)(2), added par. (3).

DEADLINE FOR PRESCRIBING STANDARDS

Pub. L. 105–368, title IX, § 903(b), Nov. 11, 1998, 112 Stat. 3361, provided that: "The standards of job performance required by paragraph (3) of section 1706(b) of title 38, United States Code, as added by subsection (a), shall be prescribed not later than January 1, 1999."

§ 1707. Limitations

(a) Funds appropriated to carry out this chapter may not be used for purposes that are inconsistent with the Assisted Suicide Funding Restriction Act of 1997 (42 U.S.C. 14401 et seq.).

(b) The Secretary may furnish sensori-neural aids only in accordance with guidelines prescribed by the Secretary.

(Added Pub. L. 105–12, § 9(i)(1), Apr. 30, 1997, 111 Stat. 27; amended Pub. L. 107–135, title II, § 208(a)(2), (f)(2), Jan. 23, 2002, 115 Stat. 2462, 2464; Pub. L. 107–330, title III, § 308(g)(5), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (a), is Pub. L. 105–12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§ 14401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of Title 42.

AMENDMENTS

2002—Pub. L. 107–135, § 208(f)(2), substituted ''Limitations'' for ''Restriction on use of funds for assisted suicide, euthanasia, or mercy killing'' as section catchline.

Pub. L. 107–135, § 208(a)(2), designated existing provisions as subsec. (a) and added subsec. (b).

Subsec. (a). Pub. L. 107–330 inserted ''(42 U.S.C. 14401 et seq.)'' before period at end.

EFFECTIVE DATE

Section effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as a note under section 14401 of Title 42, The Public Health and Welfare.

§ 1708. Temporary lodging

(a) The Secretary may furnish persons described in subsection (b) with temporary lodging in a Fisher house or other appropriate facility in connection with the examination, treatment, or care of a veteran under this chapter or, as provided for under subsection (e)(5), in connection with benefits administered under this title.

(b) Persons to whom the Secretary may provide lodging under subsection (a) are the following:

(1) A veteran who must travel a significant distance to receive care or services under this title.

(2) A member of the family of a veteran and others who accompany a veteran and provide the equivalent of familial support for such veteran.

(c) In this section, the term ''Fisher house'' means a housing facility that—

(1) is located at, or in proximity to, a Department medical facility;

(2) is available for residential use on a temporary basis by patients of that facility and others described in subsection (b)(2); and

(3) is constructed by, and donated to the Secretary by, the Zachary and Elizabeth M. Fisher Armed Services Foundation.

(d) The Secretary may establish charges for providing lodging under this section. The proceeds from such charges shall be credited to the medical care account and shall be available until expended for the purposes of providing such lodging.

(e) The Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions—

(1) limiting the duration of lodging provided under this section;

(2) establishing standards and criteria under which charges are established for such lodging under subsection (d);

(3) establishing criteria for persons considered to be accompanying a veteran under subsection (b)(2);

(4) establishing criteria for the use of the premises of temporary lodging facilities under this section; and

(5) establishing any other limitations, conditions, and priorities that the Secretary considers appropriate with respect to lodging under this section.

(Added Pub. L. 106–419, title II, § 221(a), Nov. 1, 2000, 114 Stat. 1844.)

SUBCHAPTER II—HOSPITAL, NURSING HOME, OR DOMICILIARY CARE AND MEDICAL TREATMENT

AMENDMENTS

1976—Pub. L. 94–581, title II, § 202(c), Oct. 21, 1976, 90 Stat. 2855, inserted '', NURSING HOME,'' in subchapter heading.

§ 1710. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services which the Secretary determines to be needed—

(A) to any veteran for a service-connected disability; and

(B) to any veteran who has a service-connected disability rated at 50 percent or more.

(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran—

(A) who has a compensable service-connected disability rated less than 50 percent or, with respect to nursing home care during any period during which the provisions of section 1710A(a) of this title are in effect, a compensable service-connected disability rated less than 70 percent;

(B) whose discharge or release from active military, naval, or air service was for a disability that was incurred or aggravated in the line of duty;

(C) who is in receipt of, or who, but for a suspension pursuant to section 1151 of this title (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

(D) who is a former prisoner of war or who was awarded the Purple Heart;

(E) who is a veteran of the Mexican border period or of World War I;

(F) who was exposed to a toxic substance, radiation, or other conditions, as provided in subsection (e); or

(G) who is unable to defray the expenses of necessary care as determined under section 1722(a) of this title.

(3) In the case of a veteran who is not described in paragraphs (1) and (2), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsections (f) and (g), furnish hospital care, medical services, and nursing home care which the Secretary determines to be needed.

(4) The requirement in paragraphs (1) and (2) that the Secretary furnish hospital care and medical services, the requirement in section 1710A(a) of this title that the Secretary provide nursing home care, and the requirement in section 1710B of this title that the Secretary provide a program of extended care services shall be effective in any fiscal year only to the extent and in the amount provided in advance in appropriations Acts for such purposes.

(5) During any period during which the provisions of section 1710A(a) of this title are not in effect, the Secretary may furnish nursing home care which the Secretary determines is needed to any veteran described in paragraph (1), with the priority for such care on the same basis as if provided under that paragraph.

(b)(1) The Secretary may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Secretary determines is needed for the purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 1521(d) of this title.

(B) Any veteran who the Secretary determines has no adequate means of support.

(c) While any veteran is receiving hospital care or nursing home care in any Department facility, the Secretary may, within the limits of Department facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which such veteran is hospitalized, if the veteran is willing, and the Secretary finds such services to be reasonably necessary to protect the health of such veteran. The Secretary may furnish dental services and treatment, and related dental appliances, under this subsection for a non-service-connected dental condition or disability of a veteran only (1) to the extent that the Secretary determines that the dental facilities of the Department to be used to furnish such services, treatment, or appliances are not needed to furnish services, treatment, or appliances for dental conditions or disabilities described in section 1712(a) of this title, or (2) if (A) such non-service-connected dental condition or disability is associated with or aggravating a disability for which such veteran is receiving hospital care, or (B) a compelling medical reason or a dental emergency requires furnishing dental services, treatment, or appliances (excluding the furnishing of such services, treatment, or appliances of a routine nature) to such veteran during the period of hospitalization under this section.

(d) In no case may nursing home care be furnished in a hospital not under the direct jurisdiction of the Secretary except as provided in section 1720 of this title.

(e)(1)(A) A Vietnam-era herbicide-exposed veteran is eligible (subject to paragraph (2)) for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(B) A radiation-exposed veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disease suffered by the veteran that is—

(i) a disease listed in section 1112(c)(2) of this title; or

(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.

(C) Subject to paragraphs (2) and (3) of this subsection, a veteran who served on active duty in the Southwest Asia theater of operations during the Persian Gulf War is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such service.

(D) Subject to paragraphs (2) and (3), a veteran who served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities (as defined in section 1712A(a)(2)(B) of this title) after November 11, 1998, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such condition is attributable to such service.

(E) Subject to paragraphs (2) and (3), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as ''Project Shipboard Hazard and Defense (SHAD)'' and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.

(2)(A) In the case of a veteran described in paragraph (1)(A), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to—

(i) a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (4)(A)(ii); or

(ii) a disease for which the National Academy of Sciences, in a report issued in accordance with section 3 of the Agent Orange Act of 1991, has determined that there is limited or

suggestive evidence of the lack of a positive association between occurrence of the disease in humans and exposure to a herbicide agent.

(B) In the case of a veteran described in subparagraph (C), (D), or (E) of paragraph (1), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than the service or testing described in such subparagraph.

(3) Hospital care, medical services, and nursing home care may not be provided under or by virtue of subsection (a)(2)(F)—

(A) in the case of care for a veteran described in paragraph (1)(A), after December 31, 2002;

(B) in the case of care for a veteran described in paragraph (1)(C), after December 31, 2002;

(C) in the case of care for a veteran described in paragraph (1)(D), after a period of 2 years beginning on the date of the veteran's discharge or release from active military, naval, or air service; and

(D) in the case of care for a veteran described in paragraph (1)(E), after December 31, 2005.

(4) For purposes of this subsection—

(A) The term ''Vietnam-era herbicide-exposed veteran'' means a veteran (i) who served on active duty in the Republic of Vietnam during the period beginning on January 9, 1962, and ending on May 7, 1975, and (ii) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used for military purposes during such period.

(B) The term ''radiation-exposed veteran'' has the meaning given that term in section 1112(c)(3) of this title.

(5) When the Secretary first provides care for veterans using the authority provided in paragraph (1)(D), the Secretary shall establish a system for collection and analysis of information on the general health status and health care utilization patterns of veterans receiving care under that paragraph. Not later than 18 months after first providing care under such authority, the Secretary shall submit to Congress a report on the experience under that authority. The Secretary shall include in the report any recommendations of the Secretary for extension of that authority.

(f)(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(3) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) or (4) of this subsection.

(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

(A) the lesser of—

(i) the cost of furnishing such care, as determined by the Secretary; or

(ii) the amount determined under paragraph (3) of this subsection; and

(B) before September 30, 2007, an amount equal to $10 for every day the veteran receives hospital care and $5 for every day the veteran receives nursing home care.

(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is—

(i) the amount of the inpatient Medicare deductible, plus

(ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until—

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made,

whichever occurs first.

(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day pe-

riod, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until—

(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

(ii) the end of the 365-day period applicable to the nursing home care for which payment was made,

whichever occurs first.

(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under paragraph (3) of subsection (a) to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under subsection (g) for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

(F) A veteran may not be required to make a payment under this subsection or subsection (g) for any days of care in excess of 360 days of care during any 365-calendar-day period.

(4) In the case of a veteran covered by this subsection who is also described by section 1705(a)(7) of this title, the amount for which the veteran shall be liable to the United States for hospital care under this subsection shall be an amount equal to 20 percent of the total amount for which the veteran would otherwise be liable for such care under subparagraphs (2)(B) and (3)(A) but for this paragraph.

(5) For the purposes of this subsection, the term ''inpatient Medicare deductible'' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

(g)(1) The Secretary may not furnish medical services under subsection (a) of this section (including home health services under section 1717 of this title) to a veteran who is eligible for hospital care under this chapter by reason of subsection (a)(3) of this section unless the veteran agrees to pay to the United States in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation.

(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount which the Secretary shall establish by regulation.

(3) This subsection does not apply with respect to home health services under section 1717 of this title to the extent that such services are for improvements and structural alterations.

(h) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1141, § 610; Pub. L. 87–583, § 1, Aug. 14, 1962, 76 Stat. 381; Pub. L. 89–358, § 8, Mar. 3, 1966, 80 Stat. 27; Pub. L. 89–785, title III, § 304, Nov. 7, 1966, 80 Stat. 1377; Pub. L. 91–500, § 4, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 93–82, title I, § 102, Aug. 2, 1973, 87 Stat. 180; Pub. L. 94–581, title II, §§ 202(d), 210(a)(1), Oct. 21, 1976, 90 Stat. 2855, 2862; Pub. L. 96–22, title I, § 102(a), June 13, 1979, 93 Stat. 47; Pub. L. 97–37, § 5(a), Aug. 14, 1981, 95 Stat. 936; Pub. L. 97–72, title I, § 102(a), Nov. 3, 1981, 95 Stat. 1047; Pub. L. 98–160, title VII, § 701, Nov. 21, 1983, 97 Stat. 1008; Pub. L. 99–166, title I, § 103, Dec. 3, 1985, 99 Stat. 944; Pub. L. 99–272, title XIX, § 19011(a), (d)(3), Apr. 7, 1986, 100 Stat. 372, 379; Pub. L. 99–576, title II, § 237(a), (b)(1), Oct. 28, 1986, 100 Stat. 3267; Pub. L. 100–322, title I, § 102(a), May 20, 1988, 102 Stat. 492; Pub. L. 100–687, div. B, title XII, § 1202, Nov. 18, 1988, 102 Stat. 4125; Pub. L. 101–508, title VIII, § 8013(a), Nov. 5, 1990, 104 Stat. 1388–346; Pub. L. 102–4, § 5, Feb. 6, 1991, 105 Stat. 15; Pub. L. 102–54, § 14(b)(10), June 13, 1991, 105 Stat. 283; renumbered § 1710 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–210, §§ 1(a), 2(a), Dec. 20, 1993, 107 Stat. 2496, 2497; Pub. L. 103–446, title XII, § 1201(d)(2), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 103–452, title I, § 103(a)(1), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104–110, title I, § 101(a)(1), Feb. 13, 1996, 110 Stat. 768; Pub. L. 104–262, title I, §§ 101(a), (b), (d)(2)–(4), 102(a), Oct. 9, 1996, 110 Stat. 3178, 3179, 3181; Pub. L. 104–275, title V, § 505(c), Oct. 9, 1996, 110 Stat. 3342; Pub. L. 105–33, title VIII, §§ 8021(a)(1), 8023(b)(1), (2), Aug. 5, 1997, 111 Stat. 664, 667; Pub. L. 105–114, title II, § 209(a), title IV, § 402(a), Nov. 21, 1997, 111 Stat. 2290, 2294; Pub. L. 105–368, title I, § 102(a), title X, § 1005(b)(3), Nov. 11, 1998, 112 Stat. 3321, 3365; Pub. L. 106–117, title I, §§ 101(f), 112(1), title II, § 201(b), Nov. 30, 1999, 113 Stat. 1550, 1556, 1561; Pub. L. 106–419, title II, § 224(b), Nov. 1, 2000, 114 Stat. 1846; Pub. L. 107–135, title II, §§ 202(b), 209(a), 211, Jan. 23, 2002, 115 Stat. 2457, 2464, 2465; Pub. L. 107–330, title III, § 308(g)(6), Dec. 6, 2002, 116 Stat. 2829; Pub. L. 108–170, title I, § 102, Dec. 6, 2003, 117 Stat. 2044.)

References in Text

Section 3 of the Agent Orange Act of 1991, referred to in subsec. (e)(2)(A)(ii), is section 3 of Pub. L. 102–4, which is set out as a note under section 1116 of this title.

Codification

The text of subsec. (f) of section 1712 of this title, which was transferred to this section, redesignated subsec. (g), and amended by Pub. L. 104–262, § 101(b)(2), was based on Pub. L. 86–639, § 1, July 12, 1960, 74 Stat. 472; Pub. L. 91–102, Oct. 30, 1969, 83 Stat. 168; Pub. L. 93–82, title I, § 103(a), Aug. 2, 1973, 87 Stat. 180; Pub. L. 94–581, title I, § 103(a)(3)–(7), title II, § 202(f)(2), Oct. 21, 1976, 90 Stat. 2844, 2856; Pub. L. 96–22, title I, § 102(b), June 13, 1979, 93 Stat. 47; Pub. L. 97–37, § 5(b), Aug. 14, 1981, 95 Stat. 937; Pub. L. 97–72, title I, § 103(b)(2), Nov. 3, 1981,

95 Stat. 1049; Pub. L. 97–295, §4(17)(C), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 99–166, title I, §104, Dec. 3, 1985, 99 Stat. 944; Pub. L. 99–272, title XIX, §19011(b)(2), Apr. 7, 1986, 100 Stat. 375; Pub. L. 99–576, title II, §§202(1), 237(b)(2), Oct. 28, 1986, 100 Stat. 3254, 3267; Pub. L. 100–322, title I, §101(e)(1), May 20, 1988, 102 Stat. 491; Pub. L. 101–508, title VIII, §8013(b), Nov. 5, 1990, 104 Stat. 1388–346; Pub. L. 102–83, §§4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406.

PRIOR PROVISIONS

A prior section 1710 was renumbered section 3510 of this title.

AMENDMENTS

2003—Subsec. (e)(1)(E). Pub. L. 108–170, §102(1), added subpar. (E).

Subsec. (e)(2)(B). Pub. L. 108–170, §102(2), substituted ''subparagraph (C), (D), or (E) of paragraph (1)'' for ''paragraph (1)(C) or (1)(D)'' and ''service or testing described in such subparagraph'' for ''service described in that paragraph''.

Subsec. (e)(3)(D). Pub. L. 108–170, §102(3), added subpar. (D).

2002—Subsec. (e)(1)(D). Pub. L. 107–330 substituted ''November 11, 1998'' for ''the date of the enactment of this subparagraph''.

Subsec. (e)(3)(B). Pub. L. 107–135, §211, substituted ''December 31, 2002'' for ''December 31, 2001''.

Subsec. (f)(1). Pub. L. 107–135, §202(b)(1), inserted ''or (4)'' after ''paragraph (2)''.

Subsec. (f)(2)(B). Pub. L. 107–135, §209(a), substituted ''September 30, 2007'' for ''September 30, 2002''.

Subsec. (f)(4), (5). Pub. L. 107–135, §202(b)(2), (3), added par. (4) and redesignated former par. (4) as (5).

2000—Subsec. (a)(4). Pub. L. 106–419 inserted ''the requirement in section 1710A(a) of this title that the Secretary provide nursing home care,'' after ''medical services,'' and struck out comma after ''extended care services''.

1999—Subsec. (a)(1). Pub. L. 106–117, §101(f)(1), struck out '', and may furnish nursing home care,'' after ''medical services'' in introductory provisions.

Subsec. (a)(2)(A). Pub. L. 106–117, §101(f)(2), inserted ''or, with respect to nursing home care during any period during which the provisions of section 1710A(a) of this title are in effect, a compensable service-connected disability rated less than 70 percent'' after ''50 percent''.

Subsec. (a)(2)(D). Pub. L. 106–117, §112(1), inserted ''or who was awarded the Purple Heart'' after ''former prisoner of war''.

Subsec. (a)(4). Pub. L. 106–117, §101(f)(3), inserted '', and the requirement in section 1710B of this title that the Secretary provide a program of extended care services,'' after ''medical services''.

Subsec. (a)(5). Pub. L. 106–117, §101(f)(4), added par. (5).

Subsec. (g)(1). Pub. L. 106–117, §201(b)(1), substituted ''in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation'' for ''the amount determined under paragraph (2) of this subsection''.

Subsec. (g)(2). Pub. L. 106–117, §201(b)(2), substituted ''which the Secretary shall establish by regulation.'' for ''equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Department facility. Such estimated average cost shall be determined by the Secretary.''

1998—Subsec. (e)(1)(D). Pub. L. 105–368, §102(a)(1), added subpar. (D).

Subsec. (e)(2)(A)(ii). Pub. L. 105–368, §1005(b)(3), substituted ''section 3'' for ''section 2''.

Subsec. (e)(2)(B). Pub. L. 105–368, §102(a)(2), inserted ''or (1)(D)'' after ''paragraph (1)(C)''.

Subsec. (e)(3)(A). Pub. L. 105–368, §102(a)(3)(A), struck out ''and'' at end.

Subsec. (e)(3)(B). Pub. L. 105–368, §102(a)(3)(B), substituted ''December 31, 2001; and'' for ''December 31, 1998.''

Subsec. (e)(3)(C). Pub. L. 105–368, §102(a)(3)(C), added subpar. (C).

Subsec. (e)(5). Pub. L. 105–368, §102(a)(4), added par. (5).

1997—Subsec. (a)(2)(B). Pub. L. 105–114, §402(a), struck out ''compensable'' before ''disability''.

Subsec. (a)(2)(F). Pub. L. 105–114, §209(a)(1), substituted ''other conditions'' for ''environmental hazard''.

Subsec. (e)(1)(C). Pub. L. 105–114, §209(a)(2), substituted ''served'' for ''the Secretary finds may have been exposed while serving'' and ''associated with such service'' for ''associated with such exposure'' and struck out ''to a toxic substance or environmental hazard'' after ''Persian Gulf War''.

Subsec. (e)(2)(B). Pub. L. 105–114, §209(a)(3), substituted ''the service'' for ''an exposure''.

Subsec. (f)(2)(B). Pub. L. 105–33, §8021(a)(1), inserted ''before September 30, 2002,'' after ''(B)''.

Subsec. (f)(4), (5). Pub. L. 105–33, §8023(b)(1), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''Amounts collected or received on behalf of the United States under this subsection shall be deposited in the Treasury as miscellaneous receipts.''

Subsec. (g)(4). Pub. L. 105–33, §8023(b)(2), struck out par. (4) which read as follows: ''Amounts collected or received by the Department under this subsection shall be deposited in the Treasury as miscellaneous receipts.''

1996—Subsec. (a). Pub. L. 104–262, §101(a), amended subsec. (a) generally, revising and restating provisions in former pars. (1) to (3) relating to eligibility for care as pars. (1) to (4).

Subsec. (c)(1). Pub. L. 104–262, §101(d)(2), substituted ''section 1712(a)'' for ''section 1712(b)''.

Subsec. (e)(1)(A), (B). Pub. L. 104–262, §102(a)(1), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

''(A) Subject to paragraphs (2) and (3) of this subsection, a veteran—

''(i) who served on active duty in the Republic of Vietnam during the Vietnam era, and

''(ii) who the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used in connection with military purposes during such era,

is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

''(B) Subject to paragraphs (2) and (3) of this subsection, a veteran who the Secretary finds was exposed while serving on active duty to ionizing radiation from the detonation of a nuclear device in connection with such veteran's participation in the test of such a device or with the American occupation of Hiroshima and Nagasaki, Japan, during the period beginning on September 11, 1945, and ending on July 1, 1946, is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.''

Subsec. (e)(1)(C). Pub. L. 104–262, §101(d)(3), substituted ''hospital care, medical services, and nursing home care under subsection (a)(2)(F)'' for ''hospital care and nursing home care under subsection (a)(1)(G) of this section''.

Subsec. (e)(2). Pub. L. 104–262, §102(a)(2), added par. (2) and struck out former par. (2) which read as follows: ''Hospital and nursing home care may not be provided under subsection (a)(1)(G) of this section with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in subparagraph (A), (B), or (C) of paragraph (1) of this subsection.''

Subsec. (e)(3). Pub. L. 104–262, §102(a)(2), added par. (3) and struck out former par. (3) which read as follows:

''Hospital and nursing home care and medical services may not be provided under or by virtue of subsection (a)(1)(G) of this section after December 31, 1996.''

Pub. L. 104–110 substituted ''after December 31, 1996'' for ''after June 30, 1995, or, in the case of care for a veteran described in paragraph (1)(C), after December 31, 1995''.

Subsec. (e)(4). Pub. L. 104–262, §102(a)(2), added par. (4).

Subsec. (e)(4)(A). Pub. L. 104–275 substituted ''during the period beginning on January 9, 1962, and ending on May 7, 1975,'' for ''during the Vietnam era,'' in cl. (i) and ''such period'' for ''such era'' in cl. (ii).

Subsec. (f)(1). Pub. L. 104–262, §101(d)(4)(A), substituted ''subsection (a)(3)'' for ''subsection (a)(2)''.

Subsec. (f)(3)(E). Pub. L. 104–262, §101(d)(4)(B), substituted ''paragraph (3) of subsection (a)'' for ''section 1712(a) of this title'' and ''subsection (g)'' for ''section 1712(f) of this title''.

Subsec. (f)(3)(F). Pub. L. 104–262, §101(d)(4)(C), substituted ''subsection (g)'' for ''section 1712(f) of this title''.

Subsec. (g). Pub. L. 104–262, §101(b)(2), redesignated subsec. (f) of section 1712 of this title as subsec. (g) of this section and substituted ''subsection (a)(3) of this section'' for ''section 1710(a)(2) of this title'' in par. (1). See Codification note above.

Pub. L. 104–262, §101(b)(1), redesignated subsec. (g) as (h).

Subsec. (h). Pub. L. 104–262, §101(b)(1), redesignated subsec. (g) as (h).

1994—Subsec. (e)(3). Pub. L. 103–452 substituted ''June 30, 1995'' for ''June 30, 1994'' and ''December 31, 1995'' for ''December 31, 1994''.

Subsec. (f)(3)(E). Pub. L. 103–446 substituted ''section 1712(a)'' for ''section 1712(f)'' and ''section 1712(f)'' for ''section 1712(f)(4)''.

1993—Subsec. (a)(1)(G). Pub. L. 103–210, §1(a)(1), substituted ''substance, radiation, or environmental hazard'' for ''substance or radiation''.

Subsec. (e)(1)(C). Pub. L. 103–210, §1(a)(2)(A), added subpar. (C).

Subsec. (e)(2). Pub. L. 103–210, §1(a)(2)(B), substituted ''subparagraph (A), (B), or (C)'' for ''subparagraph (A) or (B)''.

Subsec. (e)(3). Pub. L. 103–210, §2(a), substituted ''June 30, 1994'' for ''December 31, 1993''.

Pub. L. 103–210, §1(a)(2)(C), inserted before period at end '', or, in the case of care for a veteran described in paragraph (1)(C), after December 31, 1994''.

1992—Subsec. (e)(2). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–83, §5(a), renumbered section 610 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, §5(c)(1), substituted ''1151'' for ''351'' in subpar. (C) and ''1722(a)'' for ''622(a)'' in subpar. (I).

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in introductory provisions.

Subsec. (a)(1)(H). Pub. L. 102–54 substituted ''the Mexican border period'' for ''the Spanish-American War, the Mexican border period,''.

Subsec. (a)(3). Pub. L. 102–83, §5(c)(1), substituted ''1703'' for ''603'' and ''1720'' for ''620''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(2)(A). Pub. L. 102–83, §5(c)(1), substituted ''1503'' for ''503'' and ''1521(d)'' for ''521(d)''.

Subsec. (c). Pub. L. 102–83, §5(c)(1), substituted ''1712(b)'' for ''612(b)''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (d). Pub. L. 102–83, §5(c)(1), substituted ''1720'' for ''620''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e)(1). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in subpars. (A)(ii) and (B).

Subsec. (e)(3). Pub. L. 102–4 substituted ''1993'' for ''1990''.

Subsec. (f)(3)(E), (F). Pub. L. 102–83, §5(c)(1), substituted ''1712(f)'' for ''612(f)'' and ''1712(f)(4)'' for ''612(f)(4)'' in subpar. (E) and ''1712(f)'' for ''612(f)'' in subpar. (F).

Subsec. (g). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1990—Subsec. (a)(1)(I). Pub. L. 101–508, §8013(a)(1)(A), substituted ''section 622(a)'' for ''section 622(a)(1)''.

Subsec. (a)(2). Pub. L. 101–508, §8013(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows:

''(A) To the extent that resources and facilities are available, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to a veteran for a non-service-connected disability if the veteran has an income level described in section 622(a)(2) of this title.

''(B) In the case of a veteran who is not described in paragraph (1) of this subsection or in subparagraph (A) of this paragraph, the Administrator may furnish hospital care and nursing home care which the Administrator determines is needed to the veteran for a non-service-connected disability—

''(i) to the extent that resources and facilities are otherwise available; and

''(ii) subject to the provisions of subsection (f) of this section.''

Subsec. (f)(1), (2). Pub. L. 101–508, §8013(a)(2)(A), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) The Administrator may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care by reason of subsection (a)(2)(B) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

''(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to the lesser of—

''(A) the cost of furnishing such care, as determined by the Administrator; and

''(B) the amount determined under paragraph (3) of this subsection.''

Subsec. (f)(3)(A), (B). Pub. L. 101–508, §8013(a)(2)(B), substituted ''paragraph (2)(A)(ii)'' for ''paragraph (2)(B)''.

1988—Subsec. (b). Pub. L. 100–233 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Administrator, within the limits of Veterans' Administration facilities, may furnish domiciliary care to—

''(1) a veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when such person is suffering from a permanent disability or tuberculosis or neuropsychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and

''(2) a veteran who is in need of domiciliary care if such veteran is unable to defray the expenses of necessary domiciliary care.''

Subsec. (e)(3). Pub. L. 100–687 substituted ''December 31, 1990'' for ''September 30, 1989''.

1986—Subsec. (a). Pub. L. 99–576, §237(a), inserted ''who is in receipt of, or'' after ''veteran'' in par. (1)(C).

Pub. L. 99–272, §19011(a)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''The Administrator, within the limits of Veterans' Administration facilities, may furnish hospital care or nursing home care which the Administrator determines is needed to—

''(1)(A) any veteran for a service-connected disability; or

''(B) any veteran for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital or nursing home care;

''(2) a veteran whose discharge or release from the active military, naval, or air service was for a disability incurred or aggravated in line of duty;

''(3) a person (A) who is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation, or (B) who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such person's continuing eligibility for such care is provided for in the judgment or settlement described in such section;

''(4) a veteran who is a former prisoner of war;

''(5) a veteran who meets the conditions of subsection (e) of this section; and

''(6) any veteran for a non-service-connected disability if such veteran is sixty-five years of age or older.''

Subsec. (e)(1)(A), (B). Pub. L. 99–272, §19011(d)(3)(A), substituted ''is eligible for hospital care and nursing home care under subsection (a)(1)(G)'' for ''may be furnished hospital care or nursing home care under subsection (a)(5)''.

Subsec. (e)(2), (3). Pub. L. 99–272, §19011(d)(3)(B), substituted ''subsection (a)(1)(G)'' for ''subsection (a)(5)''.

Subsec. (f). Pub. L. 99–272, §19011(a)(2), added subsec. (f).

Subsec. (f)(3)(F). Pub. L. 99–576, §237(b)(1), added subpar. (F).

Subsec. (g). Pub. L. 99–272, §19011(a)(2), added subsec. (g).

1985—Subsec. (e)(3). Pub. L. 99–166 substituted ''after September 30, 1989'' for ''after the end of the one-year period beginning on the date the Administrator submits to the appropriate committees of Congress the first report required by section 307(b)(2) of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96–151; 93 Stat. 1098)''.

1983—Subsec. (a)(3). Pub. L. 98–160 inserted ''(A)'' after ''a person'' and, after ''disability compensation'', inserted ''or (B) who, but for a suspension pursuant to section 351 of this title (or both such a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such person's continuing eligibility for such care is provided for in the judgment or settlement described in such section''.

1981—Subsec. (a). Pub. L. 97–72, §102(a)(1), added cl. (5) and redesignated former cl. (5) as (6).

Pub. L. 97–37 added cl. (4) and redesignated former cl. (4) as (5).

Subsec. (e). Pub. L. 97–72, §102(a)(2), added subsec. (e).

1979—Subsec. (c). Pub. L. 96–22 inserted provisions relating to the furnishing of dental services and treatment and related dental appliances for non-service-connected dental conditions or disabilities of veterans.

1976—Pub. L. 94–581, §202(d)(1), inserted '', nursing home,'' in section catchline.

Subsec. (a). Pub. L. 94–581, §§202(d)(2), 210(a)(1)(A), (B), substituted ''the Administrator determines'' for ''he determines'' in provisions preceding par. (1) and substituted ''such veteran'' for ''he'' and ''necessary hospital or nursing home care'' for ''necessary hospital care'' in subpar. (B) of par. (1).

Subsec. (b)(1). Pub. L. 94–581, §210(a)(1)(C), substituted ''such person'' for ''he''.

Subsec. (b)(2). Pub. L. 94–581, §§202(d)(3), 210(a)(1)(B), substituted ''a veteran who is in need of domiciliary care if such veteran'' for ''a veteran of any war or of service after January 31, 1955, who is in need of domiciliary care, if he''.

Subsec. (c). Pub. L. 94–581, §210(a)(1)(B), substituted ''for which such veteran is hospitalized'' for ''for which he is hospitalized''.

Subsec. (d). Pub. L. 94–581, §202(d)(4), substituted ''direct jurisdiction'' for ''direct and exclusive jurisdiction''.

1973—Subsec. (a). Pub. L. 93–82, §102(1), (2), extended authority of the Administrator to furnish nursing home care, and in par. (1)(B), substituted ''any veteran for a'' for ''a veteran of any war or of service after January 31, 1955, for''.

Subsec. (c). Pub. L. 93–82, §102(3), expanded provision regarding medical services to include nursing home care and struck out requirement that the Administrator make a determination in each instance that the non-service-connected disability would be in the veteran's interest, would not prolong his hospitalization, and, would not interfere with the furnishing of hospital facilities to other veterans.

Subsec. (d). Pub. L. 93–82, §102(4), added subsec. (d).

1970—Subsec. (a). Pub. L. 91–500 added cl. (4).

1966—Pub. L. 89–358 inserted ''or of service after January 31, 1955,'' after ''veteran of any war'' in subsecs. (a)(1)(B) and (b)(2).

Subsec. (c). Pub. L. 89–785 added subsec. (c).

1962—Subsec. (a)(1). Pub. L. 87–583 provided for hospital care to any veteran for a service-connected disability instead of to a veteran of any war for a service-connected disability incurred or aggravated during a period of war in subpar. (A) and incorporated existing provisions in subpar. (B).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 202(b) of Pub. L. 107–135 effective Oct. 1, 2002, see section 202(c) of Pub. L. 107–135, set out as a note under section 1705 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 101(f) of Pub. L. 106–117 effective Nov. 30, 1999, with provisions of subsec. (f) of this section not applicable to any day of nursing home care on or after the effective date of regulations under section 101(h)(2) of Pub. L. 106–117, see section 101(h) of Pub. L. 106–117, set out as an Effective Date note under section 1710B of this title.

Pub. L. 106–117, title II, §201(c), as added by Pub. L. 106–419, title II, §224(c), Nov. 1, 2000, 114 Stat. 1846, provided that: ''The amendments made by subsection (b) [amending this section] shall apply with respect to medical services furnished under section 1710(a) of title 38, United States Code, on or after the effective date of the regulations prescribed by the Secretary of Veterans Affairs to establish the amounts required to be established under paragraphs (1) and (2) of section 1710(g) of that title, as amended by subsection (b).''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 8023(g) of Pub. L. 105–33 provided that:

''(1) Except as provided in paragraph (2), this section [enacting section 1729A of this title, amending this section and sections 712, 1722A, and 1729 of this title, and enacting provisions set out as notes under sections 1729 and 1729A of this title] and the amendments made by this section shall take effect on October 1, 1997.

''(2) The amendments made by subsection (d) [amending section 1729 of this title] shall take effect on the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Jan. 1, 1997, with no benefit to be paid or provided by reason of such amendment for any period before such date, see section 505(d) of Pub. L. 104–275, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1(c)(1) of Pub. L. 103–210 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 1712 of this title] shall take effect as of August 2, 1990.''

EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 102–145, § 111, Oct. 28, 1991, 105 Stat. 970, provided that: ''Notwithstanding any other provision of this joint resolution or any other law, the amendments made by sections 8012 and 8013 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) [enacting section 622A [now 1722A] of this title and amending this section and sections 612 [now 1712] and 622 [now 1722] of this title] shall remain in effect through the period covered by this joint resolution [see section 106 of Pub. L. 102–145, 105 Stat. 970, as amended by Pub. L. 102–163, 105 Stat. 1048].''

Pub. L. 102–109, § 111, Sept. 30, 1991, 105 Stat. 553, provided that: ''Notwithstanding any other provision of this joint resolution or any other law, the amendments made by sections 8012 and 8013 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) [enacting section 622A [now 1722A] of this title and amending this section and sections 612 [now 1712] and 622 [now 1722] of this title] shall remain in effect through the period covered by this joint resolution [see section 106 of Pub. L. 102–109, 105 Stat. 553].''

Section 8013(d) and (e) of Pub. L. 101–508, as amended by Pub. L. 102–139, title V, § 518(b), Oct. 28, 1991, 105 Stat. 779; Pub. L. 102–568, title VI, § 606(b), Oct. 29, 1992, 106 Stat. 4343; Pub. L. 103–66, title XII, § 12002(a), Aug. 10, 1993, 107 Stat. 414; Pub. L. 105–33, title VIII, § 8021(a)(2), Aug. 5, 1997, 111 Stat. 665, provided that:

''(d) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 612 and 622 [now 1712 and 1722] of this title] shall apply with respect to hospital care and medical services received after October 31, 1990, or the date of the enactment of this Act [Nov. 5, 1990], whichever is later.

''[(e) Repealed. Pub. L. 105–33, title VIII, § 8021(a)(2), Aug. 5, 1997, 111 Stat. 665.]''

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 237(c) of Pub. L. 99–576 provided that: ''The amendments made by this section [amending this section and section 612 [now 1712] of this title] shall take effect as of April 7, 1986.''

Section 19011(f) of Pub. L. 99–272 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 525, 601, 612, 612A, 620, 622, and 663 [now 1525, 1701, 1712, 1712A, 1720, 1722, and 1763] of this title and enacting provisions set out as notes under this section and section 1722 of this title] shall apply to hospital care, nursing home care, and medical services furnished on or after July 1, 1986.

''(2)(A) The provisions of sections 610 and 622 [now 1710 and 1722] of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Apr. 7, 1986], shall apply with respect to hospital and nursing home care furnished on or after July 1, 1986, to veterans furnished such care or services on June 30, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on June 30, 1986, as determined by the Administrator pursuant to regulations which the Administrator shall prescribe.

''(B) During the months of July and August 1986, the Administrator may, in order to continue a course of treatment begun before July 1, 1986, furnish medical services to a veteran on an ambulatory or outpatient basis without regard to the amendments made by this section.

''(C) For the purposes of this paragraph, the term 'episode of care' means a period of consecutive days—

''(i) beginning with the first day on which a veteran is furnished hospital or nursing home care; and

''(ii) ending on the day of the veteran's discharge from the hospital or nursing home facility, as the case may be.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 5(d) of Pub. L. 97–37 provided that: ''The amendments made by this section [amending this section and section 612 [now 1712] of this title] shall take effect on October 1, 1981''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–22 effective Oct. 1, 1979, see section 107 of Pub. L. 96–22, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

SAVINGS PROVISION

Section 102(b) of Pub. L. 104–262 provided that: ''The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Oct. 9, 1996], shall continue to apply on and after such date with respect to the furnishing of hospital care, nursing home care, and medical services for any veteran who was furnished such care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions, but only for treatment for a disability for which such care or services were furnished before such date.''

SAVINGS PROVISION FOR PUB. L. 100–322

Section 102(c) of Pub. L. 100–322 provided that: ''The amendment made by subsection (a) [amending this section] shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988.''

PERSONAL EMERGENCY RESPONSE SYSTEM FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Pub. L. 107–135, title II, § 210, Jan. 23, 2002, 115 Stat. 2464, provided that:

''(a) EVALUATION AND STUDY.—The Secretary of Veterans Affairs shall carry out an evaluation and study of the feasibility and desirability of providing a personal emergency response system to veterans who have service-connected disabilities. The evaluation and study shall be commenced not later than 60 days after the date of the enactment of this Act [Jan. 23, 2002].

''(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the evaluation and study under subsection (a). The Secretary shall include in the report the Secretary's findings resulting from the evaluation and study and the Secretary's conclusion as to whether the Department of Veterans Affairs should provide a personal emergency response system to veterans with service-connected disabilities.

''(c) AUTHORITY TO PROVIDE SYSTEM.—If the Secretary concludes in the report under subsection (b) that a personal emergency response system should be provided by the Department of Veterans Affairs to veterans with service-connected disabilities—

''(1) the Secretary may provide such a system, without charge, to any veteran with a service-connected disability who is enrolled under section 1705 of title 38, United States Code, and who submits an application for such a system under subsection (d); and

''(2) the Secretary may contract with one or more vendors to furnish such a system.

''(d) APPLICATION.—A personal emergency response system may be provided to a veteran under subsection (c)(1) only upon the submission by the veteran of an ap-

plication for the system. Any such application shall be in such form and manner as the Secretary may require.

''(e) DEFINITION.—For purposes of this section, the term 'personal emergency response system' means a device—

''(1) that can be activated by an individual who is experiencing a medical emergency to notify appropriate emergency medical personnel that the individual is experiencing a medical emergency; and

''(2) that provides the individual's location through a Global Positioning System indicator.''

CHIROPRACTIC TREATMENT

Pub. L. 107–135, title II, § 204, Jan. 23, 2002, 115 Stat. 2459, provided that:

''(a) REQUIREMENT FOR PROGRAM.—Subject to the provisions of this section, the Secretary of Veterans Affairs shall carry out a program to provide chiropractic care and services to veterans through Department of Veterans Affairs medical centers and clinics.

''(b) ELIGIBLE VETERANS.—Veterans eligible to receive chiropractic care and services under the program are veterans who are enrolled in the system of patient enrollment under section 1705 of title 38, United States Code.

''(c) LOCATION OF PROGRAM.—The program shall be carried out at sites designated by the Secretary for purposes of the program. The Secretary shall designate at least one site for such program in each geographic service area of the Veterans Health Administration. The sites so designated shall be medical centers and clinics located in urban areas and in rural areas.

''(d) CARE AND SERVICES AVAILABLE.—The chiropractic care and services available under the program shall include a variety of chiropractic care and services for neuro-musculoskeletal conditions, including subluxation complex.

''(e) OTHER ADMINISTRATIVE MATTERS.—(1) The Secretary shall carry out the program through personal service contracts and by appointment of licensed chiropractors in Department medical centers and clinics.

''(2) As part of the program, the Secretary shall provide training and materials relating to chiropractic care and services to Department health care providers assigned to primary care teams for the purpose of familiarizing such providers with the benefits of chiropractic care and services.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

''(g) CHIROPRACTIC ADVISORY COMMITTEE.—(1) The Secretary shall establish an advisory committee to provide direct assistance and advice to the Secretary in the development and implementation of the chiropractic health program.

''(2) The membership of the advisory committee shall include members of the chiropractic care profession and such other members as the Secretary considers appropriate.

''(3) Matters on which the advisory committee shall assist and advise the Secretary shall include the following:

''(A) Protocols governing referral to chiropractors.

''(B) Protocols governing direct access to chiropractic care.

''(C) Protocols governing scope of practice of chiropractic practitioners.

''(D) Definition of services to be provided.

''(E) Such other matters the Secretary determines to be appropriate.

''(4) The advisory committee shall cease to exist on December 31, 2004.''

Pub. L. 106–117, title III, § 303, Nov. 30, 1999, 113 Stat. 1572, provided that:

''(a) ESTABLISHMENT OF PROGRAM.—Not later than 120 days after the date of the enactment of this Act [Nov. 30, 1999], the Under Secretary for Health of the Department of Veterans Affairs, after consultation with chiropractors, shall establish a policy for the Veterans Health Administration regarding the role of chiropractic treatment in the care of veterans under chapter 17 of title 38, United States Code.

''(b) DEFINITIONS.—For purposes of this section:

''(1) The term 'chiropractic treatment' means the manual manipulation of the spine performed by a chiropractor for the treatment of such musculo-skeletal conditions as the Secretary considers appropriate.

''(2) The term 'chiropractor' means an individual who—

''(A) is licensed to practice chiropractic in the State in which the individual performs chiropractic services; and

''(B) holds the degree of doctor of chiropractic from a chiropractic college accredited by the Council on Chiropractic Education.''

IMPLEMENTATION REPORT

Pub. L. 105–368, title I, § 102(b), Nov. 11, 1998, 112 Stat. 3322, provided that: ''Not later than October 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plan for establishing and operating the system for collection and analysis of information required by paragraph (5) of section 1710(e) of title 38, United States Code, as added by subsection (a)(4) [amending this section].''

DEMONSTRATION PROJECTS FOR TREATMENT OF PERSIAN GULF ILLNESS

Section 209(b) of Pub. L. 105–114 provided that:

''(1) The Secretary of Veterans Affairs shall carry out a program of demonstration projects to test new approaches to treating, and improving the satisfaction with such treatment of, Persian Gulf veterans who suffer from undiagnosed and ill-defined disabilities. The program shall be established not later than July 1, 1998, and shall be carried out at up to 10 geographically dispersed medical centers of the Department of Veterans Affairs.

''(2) At least one of each of the following models shall be used at no less than two of the demonstration projects:

''(A) A specialized clinic which serves Persian Gulf veterans.

''(B) Multidisciplinary treatment aimed at managing symptoms.

''(C) Use of case managers.

''(3) A demonstration project under this subsection may be undertaken in conjunction with another funding entity, including agreements under section 8111 of title 38, United States Code.

''(4) The Secretary shall make available from appropriated funds (which have been retained for contingent funding) $5,000,000 to carry out the demonstration projects.

''(5) The Secretary may not approve a medical center as a location for a demonstration project under this subsection unless a peer review panel has determined that the proposal submitted by that medical center is among those proposals that have met the highest competitive standards of clinical merit and the Secretary has determined that the facility has the ability to—

''(A) attract the participation of clinicians of outstanding caliber and innovation to the project; and

''(B) effectively evaluate the activities of the project.

''(6) In determining which medical centers to select as locations for demonstration projects under this subsection, the Secretary shall give special priority to medical centers that have demonstrated a capability to compete successfully for extramural funding support for research into the effectiveness and cost-effectiveness of the care provided under the demonstration project.''

PATIENT PRIVACY FOR WOMEN PATIENTS

Section 322 of Pub. L. 104–262 provided that:

''(a) IDENTIFICATION OF DEFICIENCIES.—The Secretary of Veterans Affairs shall conduct a survey of each medical center under the jurisdiction of the Secretary to identify deficiencies relating to patient privacy af-

forded to women patients in the clinical areas at each such center which may interfere with appropriate treatment of such patients.

''(b) CORRECTION OF DEFICIENCIES.—The Secretary shall ensure that plans and, where appropriate, interim steps to correct the deficiencies identified in the survey conducted under subsection (a) are developed and are incorporated into the Department's construction planning processes and, in cases in which it is cost-effective to do so, are given a high priority.

''(c) REPORTS TO CONGRESS.—The Secretary shall compile an annual inventory, by medical center, of deficiencies identified under subsection (a) and of plans and, where appropriate, interim steps, to correct such deficiencies. The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than October 1, 1997, and not later than October 1 each year thereafter through 1999 a report on such deficiencies. The Secretary shall include in such report the inventory compiled by the Secretary, the proposed corrective plans, and the status of such plans.''

HOSPICE CARE STUDY

Section 341 of Pub. L. 104–262 provided that:

''(a) STUDY REQUIRED.—The Secretary of Veterans Affairs shall conduct a research study to determine the desirability of the Secretary furnishing hospice care to terminally ill veterans and to evaluate the most cost-effective and efficient way to do so. The Secretary shall carry out the study using resources and personnel of the Department.

''(b) CONDUCT OF STUDY.—In carrying out the study required by subsection (a), the Secretary shall—

''(1) evaluate the programs, and the program models, through which the Secretary furnishes hospice care services within or through facilities of the Department of Veterans Affairs and the programs and program models through which non-Department facilities provide such services;

''(2) assess the satisfaction of patients, and family members of patients, in each of the program models covered by paragraph (1);

''(3) compare the costs (or range of costs) of providing care through each of the program models covered by paragraph (1); and

''(4) identify any barriers to providing, procuring, or coordinating hospice services through any of the program models covered by paragraph (1).

''(c) PROGRAM MODELS.—For purposes of subsection (b)(1), the Secretary shall evaluate a variety of types of models for delivery of hospice care, including the following:

''(1) Direct furnishing of full hospice care by the Secretary.

''(2) Direct furnishing of some hospice services by the Secretary.

''(3) Contracting by the Secretary for the furnishing of hospice care, with a commitment that the Secretary will provide any further required hospital care for the patient.

''(4) Contracting for all required care to be furnished outside the Department.

''(5) Referral of the patient for hospice care without a contract.

''(d) REPORT.—Not later than April 1, 1998, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the research study. The report shall set forth the Secretary's findings and recommendations. The Secretary shall include in the report information on the extent to which the Secretary advises veterans concerning their eligibility for hospice care and information on the number of veterans (as of the time of the report) who are in each model of hospice care described in subsection (c) and the average cost per patient of hospice care for each such model.''

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Pub. L. 106–419, title II, § 224(d), Nov. 1, 2000, 114 Stat. 1846, provided that: ''Any action taken by the Secretary of Veterans Affairs under section 1710(g) of title 38, United States Code, during the period beginning on November 30, 1999, and ending on the date of the enactment of this Act [Nov. 1, 2000] is hereby ratified.''

Section 103 of title I of Pub. L. 104–110 provided that: ''Any action taken by the Secretary of Veterans Affairs before the date of the enactment of this Act [Feb. 13, 1996] under a provision of law amended by this title [amending this section, sections 1712, 1720A, 1720C, 3703, 3710, 3720, 3731, 3735, 7451, 7618, and 8169 of this title, sections 11448 and 11450 of Title 42, The Public Health and Welfare, and provisions set out as notes under sections 1712, 1718, and 7721 of this title] that was taken during the period beginning on the date on which the authority of the Secretary under that provision of law expired and ending on the date of the enactment of this Act shall be considered to have the same force and effect as if the amendment to that provision of law made by this title had been in effect at the time of that action.''

Section 105 of Pub. L. 103–452 provided that: ''Any action of the Secretary of Veterans Affairs under section 1710(e) of title 38, United States Code, during the period beginning on July 1, 1994, and ending on the date of the enactment of this Act [Nov. 2, 1994] is hereby ratified.''

REIMBURSEMENT FOR HOSPITAL, NURSING HOME OR OUTPATIENT SERVICES EXPENSES

Section 1(c)(2) of Pub. L. 103–210 directed Secretary of Veterans Affairs, on request, to reimburse any veteran who paid the United States an amount under 38 U.S.C. 1710(f) or 1712(f) for hospital care, nursing home care, or outpatient services furnished by the Secretary to the veteran before Dec. 20, 1993, on the basis of a finding that the veteran may have been exposed to a toxic substance or environmental hazard during the Persian Gulf War, with amount of reimbursement to be amount that was paid by the veteran for such care or services.

HEALTH CARE SERVICES FOR WOMEN

Pub. L. 102–585, title I, § 106, Nov. 4, 1992, 106 Stat. 4947, provided that:

''(a) GENERAL AUTHORITY.—In furnishing hospital care and medical services under chapter 17 of title 38, United States Code, the Secretary of Veterans Affairs may provide to women the following health care services:

''(1) Papanicolaou tests (pap smears).

''(2) Breast examinations and mammography.

''(3) General reproductive health care, including the management of menopause, but not including under this section infertility services, abortions, or pregnancy care (including prenatal and delivery care), except for such care relating to a pregnancy that is complicated or in which the risks of complication are increased by a service-connected condition.

''(b) RESPONSIBILITIES OF DIRECTORS OF FACILITIES.—The Secretary shall ensure that directors of medical facilities of the Department identify and assess opportunities under the authority provided in title II of this Act [38 U.S.C. 8111 note] to (1) expand the availability of, and access to, health care services for women veterans under sections 1710 and 1712 of title 38, United States Code, and (2) provide counseling, care, and services authorized by this title [see Short Title of 1992 Amendment note set out under section 101 of this title].''

REPORT ON HEALTH CARE AND RESEARCH

Pub. L. 102–585, title I, § 107, Nov. 4, 1992, 106 Stat. 4947, as amended by Pub. L. 104–262, title III, § 324, Oct. 9, 1996, 110 Stat. 3197, provided that:

''(a) IN GENERAL.—Not later than January 1 of 1993 and each year thereafter through 1998, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the provision of health care services and the conduct of research carried out by, or under the jurisdiction of, the Secretary relating to women veterans.

''(b) CONTENTS.—The report under subsection (a) shall include the following information with respect to the most recent fiscal year before the date of the report:

''(1) The number of women veterans who have received services described in section 106 of this Act [set out as a note above] in facilities under the jurisdiction of the Secretary (or the Secretary of Defense), shown by reference to the Department facility which provided (or, in the case of Department of Defense facilities, arranged) those services;

''(2) A description of (A) the services provided at each such facility (including information on the number of inpatient stays and the number of outpatient visits through which such services were provided), and (B) the extent to which each such facility relies on contractual arrangements under section 1703 or 8153 of title 38, United States Code, to furnish care to women veterans in facilities which are not under the jurisdiction of the Secretary where the provision of such care is not furnished in a medical emergency.

''(3) The steps taken by each such facility to expand the provision of services at such facility (or under arrangements with a Department of Defense facility) to women veterans.

''(4) A description (as of October 1 of the year preceding the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary, including research under section 109 of this Act [former 38 U.S.C. 7303 note].

''(5) A description of the actions taken by the Secretary to foster and encourage the expansion of such research.''

COORDINATION OF WOMEN'S SERVICES

Pub. L. 102–585, title I, § 108, Nov. 4, 1992, 106 Stat. 4948, provided that: ''The Secretary of Veterans Affairs shall ensure that an official in each regional office of the Veterans Health Administration shall serve as a coordinator of women's services. The responsibilities of such official shall include the following:

''(1) Conducting periodic assessments of the needs for services of women veterans within such region.

''(2) Planning to meet such needs.

''(3) Assisting in carrying out the purposes of section 106(b) of this title [set out above].

''(4) Coordinating the training of women veterans coordinators who are assigned to Department facilities in the region under the jurisdiction of such regional coordinator.

''(5) Providing appropriate technical support and guidance to Department facilities in that region with respect to outreach activities to women veterans.''

POPULATION STUDY OF WOMEN VETERANS

Pub. L. 102–585, title I, § 110, Nov. 4, 1992, 106 Stat. 4948, as amended by Pub. L. 103–452, title I, § 102(c), Nov. 2, 1994, 108 Stat. 4786, directed Secretary of Veterans Affairs, in consultation with Advisory Committee on Women Veterans, to conduct a study to determine needs of veterans who are women for health-care services, based on an appropriate sample of veterans who are women, and to submit to Congress, not later than 9 months after Nov. 4, 1992, an interim report describing information and advice obtained from Advisory Committee and status of study, and to submit, not later than Dec. 31, 1995, a final report describing results of study.

DEMONSTRATION PROJECT TO EVALUATE INSTALLATION OF TELEPHONES FOR PATIENT USE AT DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE FACILITIES

Pub. L. 102–585, title V, § 525, Nov. 4, 1992, 106 Stat. 4960, directed Secretary of Veterans Affairs to carry out a demonstration project to evaluate feasibility and desirability of providing telephone service in patient rooms in Department of Veterans Affairs health-care facilities which do not currently provide such service, use of telephones by patients of such health-care facilities, and relative feasibility and cost-effectiveness of a variety of options for providing such service, and submit to Congress a report on the demonstration project not later than Sept. 30, 1994.

REPORTS ON FURNISHING OF HEALTH CARE AND IMPLEMENTATION OF CHANGES IN ELIGIBILITY

Section 19011(e) of Pub. L. 99–272, as amended by Pub. L. 100–527, § 10(1), (2), Oct. 25, 1988, 102 Stat. 2640, 2641; Pub. L. 101–237, title II, § 201(d), Dec. 18, 1989, 103 Stat. 2066; Pub. L. 102–40, title III, § 302, May 7, 1991, 105 Stat. 208; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–291, § 4, May 20, 1992, 106 Stat. 179, directed Administrator of Veterans Affairs to submit to Congress a report for each fiscal year through fiscal year 1992 concerning implementation of the amendments made by section 19011 of Pub. L. 99–272, which amended this section and sections 1525, 1701, 1712, 1712A, 1720, 1722, and 1763 of this title and enacted provisions set out as notes under this section and section 1722 of this title, specified detailed information required to be submitted in each report, and provided that each report be submitted not later than the Feb. 1 following the end of the fiscal year for which it is submitted.

CHIROPRACTIC SERVICES PILOT PROGRAM

Section 109 of Pub. L. 99–166 directed Administrator of Veterans' Affairs to conduct a pilot program to evaluate therapeutic benefits and cost-effectiveness of furnishing certain chiropractic services to veterans eligible for medical services under this chapter, provided that the pilot program be carried out during period beginning Jan. 1, 1986, and ending Dec. 31, 1988, and directed Administrator to submit to Committees on Veterans' Affairs of Senate and House of Representatives not later than Apr. 1, 1989, a report on implementation, operation, and results of the pilot program.

§ 1710A. Required nursing home care

(a) The Secretary (subject to section 1710(a)(4) of this title) shall provide nursing home care which the Secretary determines is needed (1) to any veteran in need of such care for a service-connected disability, and (2) to any veteran who is in need of such care and who has a service-connected disability rated at 70 percent or more.

(b)(1) The Secretary shall ensure that a veteran described in subsection (a) who continues to need nursing home care is not, after placement in a Department nursing home, transferred from the facility without the consent of the veteran, or, in the event the veteran cannot provide informed consent, the representative of the veteran.

(2) Nothing in subsection (a) may be construed as authorizing or requiring that a veteran who is receiving nursing home care in a Department nursing home on the date of the enactment of this section be displaced, transferred, or discharged from the facility.

(c) The provisions of subsection (a) shall terminate on December 31, 2008.

(Added Pub. L. 106–117, title I, § 101(a)(1), Nov. 30, 1999, 113 Stat. 1547; amended Pub. L. 106–419, title II, § 224(a), Nov. 1, 2000, 114 Stat. 1846; Pub. L. 108–170, title I, § 106(b), Dec. 6, 2003, 117 Stat. 2046.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 106–117, which was approved Nov. 30, 1999.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–170 substituted ''December 31, 2008'' for ''December 31, 2003''.

2000—Subsec. (a). Pub. L. 106–419 inserted ''(subject to section 1710(a)(4) of this title)'' after ''The Secretary''.

REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 106–117, title I, § 101(i), Nov. 30, 1999, 113 Stat. 1550, provided that: ''Not later than January 1, 2003, the Secretary [of Veterans Affairs] shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the operation of this section [enacting this section and section 1710B of this title, amending sections 1701, 1710, 1720, 1720B and 1741 of this title, and enacting provisions set out as a note under section 1710B of this title] (including the amendments made by this section). The Secretary shall include in the report—

''(1) the Secretary's assessment of the experience of the Department [of Veterans Affairs] under the provisions of this section;

''(2) the costs incurred by the Department under the provisions of this section and a comparison of those costs with the Secretary's estimate of the costs that would have been incurred by the Secretary for extended care services if this section had not been enacted; and

''(3) the Secretary's recommendations, with respect to the provisions of section 1710A(a) of title 38, United States Code, as added by subsection (a), and with respect to the provisions of section 1701(10) of such title, as added by subsection (b), as to—

''(A) whether those provisions should be extended or made permanent; and

''(B) what modifications, if any, should be made to those provisions.''

§ 1710B. Extended care services

(a) The Secretary (subject to section 1710(a)(4) of this title and subsection (c) of this section) shall operate and maintain a program to provide extended care services to eligible veterans in accordance with this section. Such services shall include the following:

(1) Geriatric evaluation.

(2) Nursing home care (A) in facilities operated by the Secretary, and (B) in community-based facilities through contracts under section 1720 of this title.

(3) Domiciliary services under section 1710(b) of this title.

(4) Adult day health care under section 1720(f) of this title.

(5) Such other noninstitutional alternatives to nursing home care as the Secretary may furnish as medical services under section 1701(10) of this title.

(6) Respite care under section 1720B of this title.

(b) The Secretary shall ensure that the staffing and level of extended care services provided by the Secretary nationally in facilities of the Department during any fiscal year is not less than the staffing and level of such services provided nationally in facilities of the Department during fiscal year 1998.

(c)(1) Except as provided in paragraph (2), the Secretary may not furnish extended care services for a non-service-connected disability other than in the case of a veteran who has a compensable service-connected disability unless the veteran agrees to pay to the United States a copayment (determined in accordance with subsection (d)) for any period of such services in a year after the first 21 days of such services provided that veteran in that year.

(2) Paragraph (1) shall not apply—

(A) to a veteran whose annual income (determined under section 1503 of this title) is less than the amount in effect under section 1521(b) of this title;

(B) to a veteran being furnished hospice care under this section; or

(C) with respect to an episode of extended care services that a veteran is being furnished by the Department on November 30, 1999.

(d)(1) A veteran who is furnished extended care services under this chapter and who is required under subsection (c) to pay an amount to the United States in order to be furnished such services shall be liable to the United States for that amount.

(2) In implementing subsection (c), the Secretary shall develop a methodology for establishing the amount of the copayment for which a veteran described in subsection (c) is liable. That methodology shall provide for—

(A) establishing a maximum monthly copayment (based on all income and assets of the veteran and the spouse of such veteran);

(B) protecting the spouse of a veteran from financial hardship by not counting all of the income and assets of the veteran and spouse (in the case of a spouse who resides in the community) as available for determining the copayment obligation; and

(C) allowing the veteran to retain a monthly personal allowance.

(e)(1) There is established in the Treasury of the United States a revolving fund known as the Department of Veterans Affairs Extended Care Fund (hereinafter in this section referred to as the ''fund''). Amounts in the fund shall be available, without fiscal year limitation and without further appropriation, exclusively for the purpose of providing extended care services under subsection (a).

(2) All amounts received by the Department under this section shall be deposited in or credited to the fund.

(Added Pub. L. 106–117, title I, § 101(c)(1), Nov. 30, 1999, 113 Stat. 1548; amended Pub. L. 107–14, § 8(a)(2), (16), June 5, 2001, 115 Stat. 34, 35; Pub. L. 107–103, title V, § 509(b), Dec. 27, 2001, 115 Stat. 997; Pub. L. 108–422, title II, § 204, Nov. 30, 2004, 118 Stat. 2382.)

AMENDMENTS

2004—Subsec. (c)(2)(B), (C). Pub. L. 108–422 added subpar. (B) and redesignated former subpar. (B) as (C).

2001—Subsec. (c)(2)(B). Pub. L. 107–103 inserted ''on'' before ''November 30, 1999''.

Pub. L. 107–14, § 8(a)(2), substituted ''November 30, 1999'' for ''on the date of the enactment of the Veterans Millennium Health Care and Benefits Act''.

Subsec. (e)(1). Pub. L. 107–14, § 8(a)(16), substituted ''hereinafter'' for ''hereafter''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–422, title IV, § 411(f), (g), Nov. 30, 2004, 118 Stat. 2390, provided that:

''(f) CONTINGENT EFFECTIVENESS.—Subsection (d) [enacting provisions set out as a note under section 8118 of this title] and the amendments made by subsection (c) [repealing section 8116 of this title] shall take effect at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with subsection (b) of section 1710B of title 38, United States Code.

''(g) ANNUAL UPDATE.—Following a certification under subsection (f), the Secretary shall submit to Congress an annual update on that certification.''

EFFECTIVE DATE

Pub. L. 106–117, title I, § 101(h), Nov. 30, 1999, 113 Stat. 1550, provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [enacting this section and section 1710A of this title and amending sections 1701, 1710, 1720, 1720B and 1741 of this title] shall take effect on the date of the enactment of this Act [Nov. 30, 1999].

''(2) Subsection (c) of section 1710B of title 38, United States Code (as added by subsection (b)), shall take effect on the effective date of regulations prescribed by the Secretary of Veterans Affairs under subsections (c) and (d) of such section. The Secretary shall publish the effective date of such regulations in the Federal Register.

''(3) The provisions of section 1710(f) of title 38, United States Code, shall not apply to any day of nursing home care on or after the effective date of regulations under paragraph (2).''

PILOT PROGRAMS RELATING TO LONG-TERM CARE

Pub. L. 106–117, title I, § 102, Nov. 30, 1999, 113 Stat. 1551, as amended by Pub. L. 108–422, title II, § 203, Nov. 30, 2004, 118 Stat. 2382, provided that:

''(a) PILOT PROGRAMS.—The Secretary [of Veterans Affairs] shall carry out three pilot programs for the purpose of determining the effectiveness of different models of all-inclusive care-delivery in reducing the use of hospital and nursing home care by frail, elderly veterans.

''(b) LOCATIONS OF PILOT PROGRAMS.—In selecting locations in which the pilot programs will be carried out, the Secretary may not select more than one location in any given health care region of the Veterans Health Administration.

''(c) SCOPE OF SERVICES UNDER PILOT PROGRAMS.—Each of the pilot programs under this section shall be designed to provide participating veterans with integrated, comprehensive services which include the following:

''(1) Adult-day health care services on an eight-hour per day, five-day per week basis.

''(2) Medical services (including primary care, preventive services, and nursing home care, as needed).

''(3) Coordination of needed services.

''(4) Transportation services.

''(5) Home care services.

''(6) Respite care.

''(d) PROGRAM REQUIREMENTS.—In carrying out the pilot programs under this section, the Secretary shall—

''(1) employ the use of interdisciplinary care-management teams to provide the required array of services;

''(2) determine the appropriate number of patients to be enrolled in each program and the criteria for enrollment; and

''(3) ensure that funding for each program is based on the complex care category under the resource allocation system (known as the Veterans Equitable Resource Allocation system) established pursuant to section 429 of Public Law 104–204 (110 Stat. 2929).

''(e) DESIGN OF PILOT PROGRAMS.—To the maximum extent feasible, the Secretary shall use the following three models in designing the three pilot programs under this section:

''(1) Under one of the pilot programs, the Secretary shall provide services directly through facilities and personnel of the Department [of Veterans Affairs].

''(2) Under one of the pilot programs, the Secretary shall provide services through a combination of—

''(A) services provided under contract with appropriate public and private entities; and

''(B) services provided through facilities and personnel of the Department.

''(3) Under one of the pilot programs, the Secretary shall arrange for the provision of services through a combination of—

''(A) services provided through cooperative arrangements with appropriate public and private entities; and

''(B) services provided through facilities and personnel of the Department.

''(f) IN-KIND ASSISTANCE.—In providing for the furnishing of services under a contract in carrying out the pilot program described in subsection (e)(2), the Secretary may, subject to reimbursement, provide in-kind assistance (through the services of Department employees and the sharing of other Department resources) to a facility furnishing care to veterans. Such reimbursement may be made by reduction in the charges to the Secretary under such contract.

''(g) LIMITATION.—In providing for the furnishing of services in carrying out a pilot program described in subsection (e)(2) or (e)(3), the Secretary shall make payment for services only to the extent that payment for such services is not otherwise covered (notwithstanding any provision of title XVIII or XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]) by another government or nongovernment entity or program.

''(h) DURATION OF PROGRAMS.—(1) The authority of the Secretary to provide services under a pilot program under this section shall cease on the date that is three years after the date of the commencement of that pilot program.

''(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.

''(i) REPORT.—(1) Not later than nine months after the completion of all of the pilot programs under this section, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on those programs.

''(2) The report shall include the following:

''(A) A description of the implementation and operation of each such program.

''(B) An analysis comparing use of institutional care and use of other services among enrollees in each of the pilot programs with the experience of comparable patients who are not enrolled in one of the pilot programs.

''(C) An assessment of the satisfaction of participating veterans with each of those programs.

''(D) An assessment of the health status of participating veterans in each of those programs and of the ability of those veterans to function independently.

''(E) An analysis of the costs and benefits under each of those programs.''

PILOT PROGRAM RELATING TO ASSISTED LIVING

Pub. L. 106–117, title I, § 103, Nov. 30, 1999, 113 Stat. 1552, as amended by Pub. L. 108–170, title I, § 107, Dec. 6, 2003, 117 Stat. 2046, provided that:

''(a) PROGRAM AUTHORITY.—The Secretary [of Veterans Affairs] may carry out a pilot program for the purpose of determining the feasibility and practicability of enabling eligible veterans to secure needed assisted living services as an alternative to nursing home care.

''(b) LOCATIONS OF PILOT PROGRAM.—(1) The pilot program shall be carried out in a designated health care region of the Department [of Veterans Affairs] selected by the Secretary for purposes of this section.

''(2)(A) In addition to the health care region of the Department selected for the pilot program under paragraph (1), the Secretary may also carry out the pilot program in not more than one additional designated health care region of the Department selected by the Secretary for purposes of this section.

''(B) Notwithstanding subsection (f), the authority of the Secretary to provide services under the pilot pro-

gram in a health care region of the Department selected under subparagraph (A) shall cease on the date that is three years after the commencement of the provision of services under the pilot program in the health care region.

''(c) SCOPE OF PROGRAM.—In carrying out the pilot program, the Secretary may enter into contracts with appropriate facilities for the provision for a period of up to six months of assisted living services on behalf of eligible veterans in the region where the program is carried out.

''(d) ELIGIBLE VETERANS.—A veteran is an eligible veteran for purposes of this section if the veteran—

''(1) is eligible for placement assistance by the Secretary under section 1730(a) of title 38, United States Code;

''(2) is unable to manage routine activities of daily living without supervision and assistance; and

''(3) could reasonably be expected to receive ongoing services after the end of the contract period under another government program or through other means.

''(e) REPORT.—(1) Not later than 90 days before the end of the pilot program under this section, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the program.

''(2) The report under paragraph (1) shall include the following:

''(A) A description of the implementation and operation of the program.

''(B) An analysis comparing use of institutional care among participants in the program with the experience of comparable patients who are not enrolled in the program.

''(C) A comparison of assisted living services provided by the Department through the pilot program with domiciliary care provided by the Department.

''(D) The Secretary's recommendations, if any, regarding an extension of the program.

''(f) DURATION.—The authority of the Secretary to provide services under the pilot program shall cease on the date that is three years after the date of the commencement of the pilot program.

''(g) DEFINITION.—For purposes of this section, the term 'assisted living services' means services in a facility that provides room and board and personal care for and supervision of residents as necessary for the health, safety, and welfare of residents.

''(h) STANDARDS.—The Secretary may not enter into a contract with a facility under this section unless the facility meets the standards established in regulations prescribed under section 1730 of title 38, United States Code.''

§ 1711. Care during examinations and in emergencies

(a) The Secretary may furnish hospital care incident to physical examinations where such examinations are necessary in carrying out the provisions of other laws administered by the Secretary.

[(b) Repealed. Pub. L. 107–135, title II, § 208(d), Jan. 23, 2002, 115 Stat. 2463.]

(c)(1) The Secretary may contract with any organization named in, or approved by the Secretary under, section 5902 of this title to provide for the furnishing by the Secretary, on a reimbursable basis (as prescribed by the Secretary), of emergency medical services to individuals attending any national convention of such organization, except that reimbursement shall not be required for services furnished under this subsection to the extent that the individual receiving such services would otherwise be eligible under this chapter for medical services.

(2) The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1142, § 611; Pub. L. 94–581, title II, §§ 202(e), 210(a)(2), Oct. 21, 1976, 90 Stat. 2856, 2862; Pub. L. 96–22, title II, § 202, June 13, 1979, 93 Stat. 54; Pub. L. 96–128, title V, § 501(a), Nov. 28, 1979, 93 Stat. 987; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1711 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 107–135, title II, § 208(d), Jan. 23, 2002, 115 Stat. 2463.)

PRIOR PROVISIONS

Prior section 1711 was renumbered section 3511 of this title.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–135 struck out subsec. (b) which read as follows: ''The Secretary may furnish hospital care or medical services as a humanitarian service in emergency cases, but the Secretary shall charge for such care at rates prescribed by the Secretary.''

1991—Pub. L. 102–83, § 5(a), renumbered section 611 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(1). Pub. L. 102–40 substituted ''5902'' for ''3402''.

1979—Subsec. (c). Pub. L. 96–22 added subsec. (c).

Subsec. (c)(1). Pub. L. 96–128 substituted ''named in, or approved by the Administrator under,'' for ''recognized by the Administrator for the purposes of''.

1976—Pub. L. 94–581, § 202(e)(1), substituted ''Care'' for ''Hospitalization'' in section catchline.

Subsec. (a). Pub. L. 94–581, § 210(a)(2)(A), substituted ''administered by the Administrator'' for ''administered by him''.

Subsec. (b). Pub. L. 94–581, §§ 202(e)(2), 210(a)(2)(B), substituted ''hospital care or medical services'' for ''hospital care'', ''the Administrator shall charge'' for ''he shall charge'', and ''prescribed by the Administrator'' for ''prescribed by him''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1712. Dental care; drugs and medicines for certain disabled veterans; vaccines

(a)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) which is service-connected and compensable in degree;

(B) which is service-connected, but not compensable in degree, but only if—

(i) the dental condition or disability is shown to have been in existence at the time of the veteran's discharge or release from active military, naval, or air service;

(ii) the veteran had served on active duty for a period of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days

immediately before such discharge or release;

(iii) application for treatment is made within 90 days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within 90 days after the date of such veteran's prior discharge or release from such service, application may be made within 90 days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within 90 days after the date of correction; and

(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the 90-day period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed;

(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(E) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

(F) from which a veteran who is a former prisoner of war is suffering;

(G) from which a veteran who has a service-connected disability rated as total is suffering; or

(H) the treatment of which is medically necessary (i) in preparation for hospital admission, or (ii) for a veteran otherwise receiving care or services under this chapter.

(2) The Secretary concerned shall at the time a member of the Armed Forces is discharged or released from a period of active military, naval, or air service of not less than 180 days or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days provide to such member a written explanation of the provisions of clause (B) of paragraph (1) of this subsection and enter in the service records of the member a statement signed by the member acknowledging receipt of such explanation (or, if the member refuses to sign such statement, a certification from an officer designated for such purpose by the Secretary concerned that the member was provided such explanation).

(3) The total amount which the Secretary may expend for furnishing, during any twelve-month period, outpatient dental services, treatment, or related dental appliances to a veteran under this section through private facilities for which the Secretary has contracted under clause (1), (2), or (5) of section 1703(a) of this title may not exceed $1,000 unless the Secretary determines, prior to the furnishing of such services, treatment, or appliances and based on an examination of the veteran by a dentist employed by the Department (or, in an area where no such dentist is available, by a dentist conducting such examination under a contract or fee arrangement), that the furnishing of such services, treatment, or appliances at such cost is reasonably necessary.

(4)(A) Except as provided in subparagraph (B) of this paragraph, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of this subsection and section 1703 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Secretary shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 1703 of this title for contracting with private facilities and in the second sentence of section 1710(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Secretary determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Secretary shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Secretary on the effect of the application of the criteria prescribed in the second sentence of section 1710(c) of this title for furnishing incidental dental care to hospitalized veterans.

(B) A report under subparagraph (A) of this paragraph with respect to a fiscal year is not required if, in the documents submitted by the Secretary to the Congress in justification for the amounts included for Department programs in the President's Budget, the Secretary specifies with respect to contract dental care described in such subparagraph—

(i) the actual level of expenditures for such care in the fiscal year preceding the fiscal year in which such Budget is submitted;

(ii) a current estimate of the level of expenditures for such care in the fiscal year in which such Budget is submitted; and

(iii) the amount included in such Budget for such care.

(b) Dental services and related appliances for a dental condition or disability described in para-

graph (1)(B) of subsection (a) shall be furnished on a one-time completion basis, unless the services rendered on a one-time completion basis are found unacceptable within the limitations of good professional standards, in which event such additional services may be afforded as are required to complete professionally acceptable treatment.

(c) Dental appliances, wheelchairs, artificial limbs, trusses, special clothing, and similar appliances to be furnished by the Secretary under this section may be procured by the Secretary either by purchase or by manufacture, whichever the Secretary determines may be advantageous and reasonably necessary.

(d) The Secretary shall furnish to each veteran who is receiving additional compensation or allowance under chapter 11 of this title, or increased pension as a veteran of a period of war, by reason of being permanently housebound or in need of regular aid and attendance, such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of any illness or injury suffered by such veteran. The Secretary shall continue to furnish such drugs and medicines so ordered to any such veteran in need of regular aid and attendance whose pension payments have been discontinued solely because such veteran's annual income is greater than the applicable maximum annual income limitation, but only so long as such veteran's annual income does not exceed such maximum annual income limitation by more than $1,000.

(e) In order to assist the Secretary of Health and Human Services in carrying out national immunization programs under other provisions of law, the Secretary may authorize the administration of immunizations to eligible veterans who voluntarily request such immunizations in connection with the provision of care for a disability under this chapter in any Department health care facility. Any such immunization shall be made using vaccine furnished by the Secretary of Health and Human Services at no cost to the Department. For such purpose, notwithstanding any other provision of law, the Secretary of Health and Human Services may provide such vaccine to the Department at no cost. Section 7316 of this title shall apply to claims alleging negligence or malpractice on the part of Department personnel granted immunity under such section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1142, § 612; Pub. L. 86–639, § 1, July 12, 1960, 74 Stat. 472; Pub. L. 87–377, § 1, Oct. 4, 1961, 75 Stat. 806; Pub. L. 87–583, § 2, Aug. 14, 1962, 76 Stat. 381; Pub. L. 88–430, Aug. 14, 1964, 78 Stat. 438; Pub. L. 88–450, § 7, Aug. 19, 1964, 78 Stat. 504; Pub. L. 88–664, § 8, Oct. 13, 1964, 78 Stat. 1096; Pub. L. 90–77, title II, § 203(b), Aug. 31, 1967, 81 Stat. 183; Pub. L. 91–102, Oct. 30, 1969, 83 Stat. 168; Pub. L. 91–500, §§ 2, 3, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 91–588, §§ 4, 9(f), Dec. 24, 1970, 84 Stat. 1583, 1585; Pub. L. 93–82, title I, § 103(a), Aug. 2, 1973, 87 Stat. 180; Pub. L. 94–581, title I, § 103(a), title II, §§ 202(f), 210(a)(3), Oct. 21, 1976, 90 Stat. 2844, 2856, 2862; Pub. L. 95–588, title III, § 302, Nov. 4, 1978, 92 Stat. 2506; Pub. L. 96–22, title I, §§ 101, 102(b), June 13, 1979, 93 Stat. 47; Pub. L. 96–151, title II, §§ 203, 204, Dec. 20, 1979, 93 Stat. 1094; Pub. L. 97–35, title XX, § 2002(a), Aug. 13, 1981, 95 Stat. 781; Pub. L. 97–37, §§ 3(b), 5(b), (c), Aug. 14, 1981, 95 Stat. 936, 937; Pub. L. 97–72, title I, §§ 102(b), 103(a), (b), Nov. 3, 1981, 95 Stat. 1048, 1049; Pub. L. 97–295, § 4(17), (95)(A), Oct. 12, 1982, 96 Stat. 1306, 1313; Pub. L. 99–166, title I, § 104, Dec. 3, 1985, 99 Stat. 944; Pub. L. 99–272, title XIX, §§ 19011(b), 19012(c)(1), (2), Apr. 7, 1986, 100 Stat. 375, 382; Pub. L. 99–576, title II, §§ 202, 231(b), 237(b)(2), title VII, § 702(5), Oct. 28, 1986, 100 Stat. 3254, 3263, 3267, 3301; Pub. L. 100–322, title I, §§ 101(a)–(c), (d)(2), (e)(1), (2), (f), (g)(1), (h)(1), 106, May 20, 1988, 102 Stat. 489–492, 494; Pub. L. 101–508, title VIII, § 8013(b), Nov. 5, 1990, 104 Stat. 1388–346; Pub. L. 102–25, title III, § 334(a), (c), Apr. 6, 1991, 105 Stat. 88, 89; renumbered § 1712 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), (5), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title III, §§ 301, 302, Aug. 14, 1991, 105 Stat. 416; Pub. L. 102–585, title I, § 103, Nov. 4, 1992, 106 Stat. 4946; Pub. L. 103–210, § 1(b), Dec. 20, 1993, 107 Stat. 2496; Pub. L. 103–446, title XII, § 1201(d)(3), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 103–452, title I, §§ 101(e), 103(a)(2), Nov. 2, 1994, 108 Stat. 4784, 4786; Pub. L. 104–110, title I, § 101(a)(2), Feb. 13, 1996, 110 Stat. 768; Pub. L. 104–262, title I, § 101(b)(2)–(c)(2)(A), Oct. 9, 1996, 110 Stat. 3179; Pub. L. 106–419, title IV, § 404(a)(3), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 108–170, title I, § 101(a), Dec. 6, 2003, 117 Stat. 2043.)

PRIOR PROVISIONS

Prior section 1712 was renumbered section 3512 of this title.

AMENDMENTS

2003—Subsec. (a)(1)(F). Pub. L. 108–170 struck out "and who was detained or interned for a period of not less than 90 days" after "war".

2000—Subsec. (a)(4)(A). Pub. L. 106–419 substituted "this subsection" for "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)" after "under the provisions" in first sentence.

1996—Pub. L. 104–262, § 101(c)(2)(A), substituted "Dental care; drugs and medicines for certain disabled veterans; vaccines" for "Eligibility for outpatient services" in section catchline.

Subsec. (a). Pub. L. 104–262, § 101(c)(1)(A), (B), redesignated subsec. (b) as (a) and struck out former subsec. (a) which required and authorized the Secretary to furnish on an ambulatory or outpatient basis medical services for certain veterans.

Subsec. (a)(1)(D). Pub. L. 104–110 substituted "December 31, 1996" for "December 31, 1995".

Subsec. (b). Pub. L. 104–262, § 101(c)(1)(B), (C), redesignated subsec. (c) as (b) and substituted "subsection (a)" for "subsection (b) of this section". Former subsec. (b) redesignated (a).

Subsecs. (c) to (e). Pub. L. 104–262, § 101(c)(1)(B), redesignated subsecs. (d), (h), and (j) as (c), (d), and (e), respectively. Former subsec. (c) redesignated (b).

Subsec. (f). Pub. L. 104–262, § 101(b)(2), redesignated subsec. (f) as subsec. (g) of section 1710 of this title.

Subsec. (h). Pub. L. 104–262, § 101(c)(1)(B), redesignated subsec. (h) as (d).

Subsec. (i). Pub. L. 104–262, § 101(c)(1)(A), struck out subsec. (i), which required Secretary to prescribe regulations relating to the order in which medical services were to be furnished to veterans.

Subsec. (j). Pub. L. 104–262, § 101(c)(1)(B), redesignated subsec. (j) as (e).

1994—Subsec. (a)(1)(D). Pub. L. 103–452, § 103(a)(2), substituted "December 31, 1995" for "December 31, 1994".

Subsec. (i)(1). Pub. L. 103–452, § 101(e)(1), inserted "(A)" after "To a veteran" and inserted before period at end ", or (B) who is eligible for counseling and care

and services under section 1720D of this title, for the purposes of such counseling and care and services''.

Subsec. (i)(2). Pub. L. 103–452, §101(e)(2), substituted ''or (B)'' for '', (B)'' and struck out before period at end '', or (C) who is eligible for counseling under section 1720D of this title, for the purposes of such counseling''.

Subsec. (i)(5). Pub. L. 103–446, §1201(d)(3)(A), substituted ''section 1722(a)(3)'' for ''section 1722(a)(1)(C)''.

Subsec. (j). Pub. L. 103–446, §1201(d)(3)(B), substituted ''Section 7316'' for ''Section 4116''.

1993—Subsec. (a)(1)(D). Pub. L. 103–210, §1(b)(1), added subpar. (D).

Subsec. (a)(7). Pub. L. 103–210, §1(b)(2), added par. (7).

1992—Subsec. (i)(2)(C). Pub. L. 102–585 added cl. (C).

1991—Pub. L. 102–83, §5(a), renumbered section 612 of this title as this section.

Subsec. (a). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (a)(1)(C). Pub. L. 102–83, §5(c)(1), substituted ''1151'' for ''351''.

Subsec. (a)(2)(B). Pub. L. 102–83, §5(c)(1), substituted ''1710(a)'' for ''610(a)'', ''1503'' for ''503'', and ''1521(d)'' for ''521(d)''.

Subsec. (a)(4). Pub. L. 102–83, §5(c)(1), substituted ''1710'' for ''610''.

Subsec. (a)(6). Pub. L. 102–83, §5(c)(1), substituted ''1703'' for ''603''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(1)(B)(ii). Pub. L. 102–25, §334(a), inserted ''or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days'' after ''180 days''.

Subsec. (b)(1)(H). Pub. L. 102–86, §301, amended subsec. (b)(1) of this section as in effect before the redesignations made by Pub. L. 102–83, §5, by adding subpar. (H).

Subsec. (b)(2). Pub. L. 102–25, §334(a), inserted ''or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days'' after ''180 days''.

Subsec. (b)(3). Pub. L. 102–86, §302, amended subsec. (b) of this section as in effect before the redesignations made by Pub. L. 102–83, §5, by substituting ''$1,000'' for ''$500''.

Pub. L. 102–83, §5(c)(1), substituted ''1703(a)'' for ''603(a)''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(4). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(4)(A). Pub. L. 102–83, §5(c)(1), substituted in two places ''1703'' for ''603'' and ''1710(c)'' for ''610(c)''.

Subsec. (b)(4)(B). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

Subsec. (d). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (f). Pub. L. 102–83, §5(c)(1), substituted ''1717'' for ''617'' and ''1710(a)(2)'' for ''610(a)(2)'' in par. (1) and ''1717'' for ''617'' in par. (3).

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in pars. (1) and (2).

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in pars. (2) and (4).

Subsec. (h). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–25, §334(c), substituted ''a period of war'' for ''the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era''.

Subsec. (i). Pub. L. 102–83, §5(c)(1), substituted ''1710(e)'' for ''610(e)'' in par. (3) and ''1722(a)(1)(C)'' for ''622(a)(1)(C)'' in par. (5).

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (j). Pub. L. 102–83, §4(b)(5), substituted ''the Secretary of Health and Human Services'' for ''the Secretary'' in second and third sentences.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in first sentence.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1990—Subsec. (f)(1). Pub. L. 101–508, §8013(b)(1), substituted ''section 610(a)(2)'' for ''section 610(a)(2)(B)''.

Subsec. (f)(3) to (7). Pub. L. 101–508, §8013(b)(2), (3), redesignated pars. (5) and (7) as (3) and (4), respectively, and struck out former pars. (3), (4), and (6) which read as follows:

''(3) A veteran may not be required to make a payment under this subsection for services furnished under subsection (a) of this section during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this subsection for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

''(4) A veteran may not be required to make a payment under this subsection if such payment would result in the veteran paying, under this subsection and section 610(f) of this title, a total amount greater than four times the amount of the inpatient Medicare deductible for care or services, or any combination thereof, furnished under this chapter during any 365-calendar-day period.

''(6) For the purposes of this subsection, the term 'inpatient Medicare deductible' means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).''

1988—Pub. L. 100–322, §101(h)(1), substituted ''Eligibility for outpatient services'' for ''Eligibility for medical treatment'' in section catchline.

Subsec. (a)(1). Pub. L. 100–322, §101(a), substituted ''shall furnish on an ambulatory or outpatient basis'' for ''may furnish'' in introductory provisions and added subpar. (C).

Subsec. (a)(2). Pub. L. 100–322, §101(b)(1), (3), added par. (2) and struck out former par. (2) which read as follows: ''Subject to subsection (k) of this section, as part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities).''

Subsec. (a)(3) to (6). Pub. L. 100–322, §101(b)(2), (3), added pars. (3) to (5) and redesignated former par. (3) as (6).

Subsec. (b)(1)(B)(i). Pub. L. 100–322, §101(f)(1), substituted ''at the time of the veteran's'' for ''at time of''.

Subsec. (b)(1)(B)(ii). Pub. L. 100–322, §101(f)(2), substituted ''180 days'' for ''one hundred and eighty days''.

Subsec. (b)(1)(B)(iii). Pub. L. 100–322, §101(f)(3), substituted ''90 days'' for ''ninety days'' in four places.

Subsec. (b)(1)(B)(iv). Pub. L. 100–322, §101(f)(4), substituted ''90-day'' for ''ninety-day''.

Subsec. (b)(1)(F). Pub. L. 100–322, §§101(g)(1)(A), 106, redesignated subpar. (G) as (F), substituted ''90 days'' for ''six months'', and struck out former subpar. (F) which read as follows: ''from which a veteran of the Spanish-American War or Indian wars is suffering;''.

Subsec. (b)(1)(G), (H). Pub. L. 100–322, §101(g)(1)(A), redesignated subpar. (H) as (G). Former subpar. (G) redesignated (F).

Subsec. (b)(4)(A). Pub. L. 100–322, §101(e)(2)(A), substituted ''subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)'' for ''subsections (a) and (f) of this section''.

Subsec. (e). Pub. L. 100–322, §101(g)(1)(B), struck out subsec. (e) which read as follows: ''Any disability of a veteran of the Spanish-American War or Indian Wars, upon application for the benefits of this section or out-

patient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.''

Subsec. (f)(1). Pub. L. 100–322, §101(e)(1)(A)–(C), redesignated par. (4)(A) as par. (1), substituted ''under subsection (a) of this section (including home health services under section 617 of this title)'' for ''under this subsection (including home health services under paragraph (2) of this subsection)'' and ''paragraph (2) of this subsection'' for ''subparagraph (B) of this paragraph'', and struck out former par. (1) which read as follows: ''Except as provided in paragraph (4) of this subsection, the Administrator may furnish medical services for any disability on an outpatient or ambulatory basis—

''(A) to any veteran eligible for hospital care under section 610 of this title (i) if such services are reasonably necessary in preparation for, or (to the extent that facilities are available) to obviate the need of, hospital admission, or (ii) if such a veteran has been furnished hospital care, nursing home care, or domiciliary care and such medical services are reasonably necessary to complete treatment incident to such care (for a period not in excess of twelve months after discharge from such treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); and

''(B) to any veteran who is a former prisoner of war.''

Subsec. (f)(2). Pub. L. 100–322, §101(e)(1)(D)–(F), redesignated par. (4)(B) as (2), substituted ''subsection (a) of this section and who is required under paragraph (1) of this subsection'' for ''this subsection and who is required under subparagraph (A) of this paragraph'', and struck out former par. (2) which read as follows: ''Subject to subsection (k) of this section, as part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).''

Subsec. (f)(3). Pub. L. 100–322, §101(e)(1)(A), (D), (E), (G), redesignated par. (4)(C) as (3), substituted ''under this subsection for services furnished under subsection (a) of this section'' for ''under this paragraph for services furnished under this subsection'' and ''veteran under this subsection'' for ''veteran under this paragraph'', and struck out former par. (3) which read as follows: ''In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.''

Subsec. (f)(4). Pub. L. 100–322, §101(e)(1)(D), redesignated par. (4)(D) as (4).

Subsec. (f)(5). Pub. L. 100–322, §101(e)(1)(D), (H), redesignated par. (4)(E) as (5) and substituted ''under section 617 of this title'' for ''under this subsection''.

Subsec. (f)(6). Pub. L. 100–322, §101(e)(1)(D), (E), redesignated par. (4)(F) as (6) and substituted ''this subsection'' for ''this paragraph''.

Subsec. (f)(7). Pub. L. 100–322, §101(e)(1)(D), (E), redesignated par. (4)(G) as (7) and substituted ''this subsection'' for ''this paragraph''.

Subsec. (g). Pub. L. 100–322, §101(e)(2)(B), struck out subsec. (g) which read as follows:

''(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

''(A) who is a veteran of the Mexican border period or of World War I; or

''(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

''(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

''(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.''

Subsec. (i). Pub. L. 100–322, §101(c), added pars. (1) to (5) and struck out former pars. (1) to (6) which read as follows:

''(1) To any veteran for a service-connected disability.

''(2) To any veteran described in subsection (f)(2) of this section.

''(3) To any veteran with a disability rated as service-connected (including any veteran being examined to determine the existence or rating of a service-connected disability).

''(4) To any veteran (A) who is a former prisoner of war, or (B) who is eligible for care under section 610(a)(5) of this title.

''(5) To any veteran being furnished medical services under subsection (g) of this section.

''(6) To any veteran who is in receipt of pension under section 521 of this title.''

Subsec. (k). Pub. L. 100–322, §101(d)(2), transferred subsec. (k) to section 617(a)(3) of this title.

1986—Subsec. (a). Pub. L. 99–272, §19011(b)(1), substituted par. (1) for ''Except as provided in subsection (b) of this section, the Administrator, within the limits of Veterans' Administration facilities, may furnish such medical services as the Administrator finds to be reasonably necessary to any veteran for a service-connected disability.'', designated second sentence of existing provision as par. (2), substituted ''As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran'' for ''The Administrator may also furnish to any such veteran'', struck out provision that in the case of a veteran discharged or released from active military, naval, or air service for a disability incurred or aggravated in the line of duty, services may be provided for that disability, whether or not service-connected for the purposes of this chapter, and added par. (3).

Subsec. (a)(2). Pub. L. 99–576, §202(1), substituted ''Subject to subsection (k) of this section, as'' for ''As''.

Subsec. (b)(3). Pub. L. 99–272, §19012(c)(1), substituted ''clause (1), (2), or (5) of section 603(a)'' for ''clause (i), (ii), or (v) of section 601(4)(C)''.

Subsec. (b)(4). Pub. L. 99–576, §231(b), designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B) of this paragraph, in'' for ''In'', and added subpar. (B).

Pub. L. 99–272, §19012(c)(2), substituted ''section 603'' for ''section 601(4)(C)'' in two places.

Subsec. (f). Pub. L. 99–272, §19011(b)(2), designated existing first sentence as par. (1), substituted ''Except as provided in paragraph (4) of this subsection, the Administrator may'' for ''The Administrator, within the limits of Veterans' Administration facilities, may'', redesignated former cl. (1) as cl. (A) and subcls. (A) and (B) as subcls. (i) and (ii), inserted ''and'' after ''being treated);'', struck out par. (2), which related to any veteran who had a service-connected disability rated at 50 percent or more, and redesignated cl. (3) as cl. (B); designated existing second sentence as par. (2) and substituted ''As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran'' for ''The Administrator may also furnish to any such veteran''; struck out provision authorizing the Administrator to furnish outpatient dental services and treatment, and related appliances, to any veteran described in subsec. (b)(1)(G) of this section; and added pars. (3) and (4).

Subsec. (f)(2). Pub. L. 99–576, §202(1), substituted ''Subject to subsection (k) of this section, as'' for ''As''.

Subsec. (f)(4)(D) to (G). Pub. L. 99–576, § 237(b)(2), added subpar. (D) and redesignated former subpars. (D) to (F) as (E) to (G), respectively.

Subsec. (g). Pub. L. 99–272, § 19011(b)(3), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''In the case of any veteran who is a veteran of the Mexican border period or of World War I or who is in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound, or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance, the Administrator, within the limits of Veterans' Administration facilities, may furnish the veteran such medical services as the Administrator finds to be reasonably necessary. The Administrator may also furnish to any such veteran home health services under the terms and conditions set forth in subsection (f) of this section.''

Subsec. (i)(6). Pub. L. 99–272, § 19011(b)(4), added par. (6).

Subsec. (j). Pub. L. 99–576, § 702(5), substituted ''programs under other provisions'' for ''programs pursuant to other provisions'', ''veterans who voluntarily request such immunizations'' for ''veterans (voluntarily requesting such immunizations)'', ''facility. Any such immunization shall be made using'' for ''facility, utilizing'', ''Administration. For such purpose, notwithstanding any other provision of law, the Secretary may provide'' for ''Administration, and for such purpose, notwithstanding any other provision of law, the Secretary is authorized to provide'', and ''cost. Section 4116'' for ''cost and the provisions of section 4116''.

Subsec. (k). Pub. L. 99–576, § 202(2), added subsec. (k).

1985—Subsec. (f)(1). Pub. L. 99–166 substituted ''if'' for ''where'' after ''(A)'' and ''(B)'', inserted '', nursing home care, or domiciliary care'', struck out ''hospital'' after ''treatment incident to such'', and substituted ''from such treatment'' for ''from in-hospital treatment''.

1982—Subsec. (a). Pub. L. 97–295, § 4(17)(A), (B), inserted ''of this section'' after ''subsection (b)'', and substituted ''facilities)'' for ''facilities'' after ''sanitary''.

Subsec. (f)(2). Pub. L. 97–295, § 4(17)(C), substituted ''percent'' for ''per centum''.

Subsec. (h). Pub. L. 97–295, § 4(17)(D), inserted ''of this title'' after ''chapter 11''.

Subsec. (i). Pub. L. 97–295, § 4(17)(E), substituted ''The'' for ''Not later than ninety days after the effective date of this subsection, the'' at the beginning.

Subsec. (j). Pub. L. 97–295, § 4(95)(A), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1981—Subsec. (b). Pub. L. 97–72, § 103(a), divided existing provisions into pars. (1), (2), (3), and (4), redesignated cls. (1) through (8) as subpars. (A) through (H) of par. (1) as redesignated, made internal substitutions reflecting new number and letter designations, and, in par. (1)(B) as redesignated, inserted provisions set out in par. (1)(B)(ii), (iii)(I), and (iv).

Pub. L. 97–37, § 3(b), in cl. (7) substituted ''from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than six months is suffering'' for ''from which any veteran of World War I, World War II, the Korean conflict, or the Vietnam era who was held as a prisoner of war for a period of not less than six months is suffering''.

Pub. L. 97–35 inserted provisions requiring the Secretary concerned to furnish a discharged or released member of the Armed Forces a written explanation concerning the provisions of cl. (2) of this subsection, and in cl. (2) added subcl. (B) and (D), and redesignated former subcl. (B) as (C) and, as so redesignated, substituted ''90 days'' for ''one year'' in two places.

Subsec. (c). Pub. L. 97–72, § 103(b)(1), substituted ''paragraph (1)(B)'' for ''clause (2)''.

Subsec. (f). Pub. L. 97–72, § 103(b)(2), substituted ''clause (G) of subsection (b)(1)'' for ''subsection (b)(7)''.

Subsec. (f)(3). Pub. L. 97–37, § 5(b), added cl. (3).

Subsec. (i)(4). Pub. L. 97–72, § 102(b), designated existing provisions relating to former prisoners of war as cl. (A) and added cl. (B) relating to veterans who are eligible for care under section 610(a)(5) of this title.

Pub. L. 97–37, § 5(c), added cl. (4). Former cl. (4) redesignated (5).

Subsec. (i)(5). Pub. L. 97–37, § 5(c)(1), redesignated former cl. (4) as (5).

1979—Subsec. (b). Pub. L. 96–151, § 203, inserted provisions relating to the total amount the Administrator may expend.

Pub. L. 96–22, § 102(b)(1), added pars. (7) and (8) and inserted provisions following par. (8).

Subsec. (f). Pub. L. 96–22, § 102(b)(2), authorized the Administrator to furnish outpatient dental services and treatment, and related appliances, to any veteran described in subsec. (b)(7) of this section.

Subsec. (g). Pub. L. 96–151, § 204, inserted provisions relating to particular applicability to Mexican border period or World War I veterans, and provisions relating to furnishing by the Administrator of home health care services.

Subsec. (i)(3). Pub. L. 96–22, § 101, inserted ''(including any veteran being examined to determine the existence or rating of a service-connected disability)'' after ''with a disability rated as service connected''.

1978—Subsec. (h). Pub. L. 95–588 substituted ''$1,000'' for ''$500''.

1976—Subsec. (a). Pub. L. 94–581, §§ 103(a)(1), 210(a)(3)(A), inserted provisions which authorized the Administrator to furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for the disability or to provide access to the home or to essential lavatory and sanitary facilities), and in the existing provisions substituted ''as the Administrator finds'' for ''as he finds''.

Subsec. (b). Pub. L. 94–581, § 103(a)(2), added par. (5) and redesignated former par. (5) as (6).

Subsec. (d). Pub. L. 94–581, § 210(a)(3)(B), substituted ''procured by the Administrator'' for ''procured by him'' and ''whichever the Administrator determines'' for ''whichever he determines''.

Subsec. (e). Pub. L. 94–581, § 202(f)(1), substituted ''Indian Wars'' for ''Indian wars''.

Subsec. (f). Pub. L. 94–581, §§ 103(a)(3)–(7), 202(f)(2), substituted ''within the limits of Veterans' Administration facilities, may furnish'' for ''may also furnish'' in provisions preceding par. (1), substituted ''or (to the extent that facilities are available) to obviate'' for ''or to obviate'' in cl. (A) of par. (1), substituted ''furnished'' for ''granted'' in existing provisions of cl. (B) of par. (1) and inserted ''(for a period not in excess of twelve months after discharge from in-hospital treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated)'' at end, substituted ''50 per centum'' for ''80 per centum'' in par. (2), and inserted, after par. (2), provision authorizing the Administrator to furnish to the veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of the veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

Subsec. (g). Pub. L. 94–581, §§ 202(f)(3), 210(a)(3)(C), inserted '', within the limits of Veterans' Administration facilities,'' after ''the Administrator'' and substituted ''as the Administrator finds'' for ''as he finds''.

Subsec. (h). Pub. L. 94–581, § 210(a)(3)(D), substituted ''such veteran's annual income is greater'' for ''his annual income is greater'' and ''such veteran's annual income does not exceed'' for ''his annual income does not exceed''.

Subsecs. (i), (j). Pub. L. 94–581, § 103(a)(8), added subsecs. (i) and (j).

1973—Subsec. (f). Pub. L. 93–82 substituted provisions relating to the furnishing of medical services for any disability on an outpatient or ambulatory basis to veterans eligible for hospital care where such services are necessary in preparation for, or to obviate the need of, hospital admission, or where such veteran has been granted hospital care and such medical services are reasonably necessary to complete treatment incident to such hospital care and to veterans who have a service-connected disability rated at 80 per centum or more for provisions relating to the furnishing of medical services for a non-service connected disability where such care is reasonably necessary in preparation for admission of a veteran who has been determined to need hospital care and who has been scheduled for admission, where a veteran has been granted hospital care, and outpatient care is reasonably necessary to complete treatment incident to such hospital care, and where a veteran of any war has a total disability permanent in nature resulting from a service-connected disability.

1970—Subsec. (g). Pub. L. 91–500, § 2, extended the authority of the Administrator to furnish medical services as he finds necessary to veterans permanently housebound or receiving pension or compensation based on need of regular aid and attendance and struck out conditions limiting such medical care to veterans hospitalized or suffering from one or more of the six specific conditions or diseases enumerated.

Subsec. (h). Pub. L. 91–588 inserted reference to Mexican border period and authorized the Administrator to continue furnishing drugs and medicine so ordered by any veteran in need of regular aid and attendance whose pension payments have been discontinued solely because his annual income is greater than the applicable maximum annual income limitation, but only so long as his annual income does not exceed such maximum annual income limitation by more than $500.

Pub. L. 91–500, § 3, authorized furnishing of drugs and medicines to veterans receiving additional compensation or allowance or increased pension by reason of being ''permanently housebound''.

1969—Subsec. (f)(3). Pub. L. 91–102 added par. (3).

1967—Subsec. (h). Pub. L. 90–77 imposed the obligation of furnishing drugs and medicines on the Administrator and extended such medical benefits to veterans receiving additional compensation under chapter 11 and veterans of the Vietnam era.

1964—Subsec. (b)(2). Pub. L. 88–430 permitted an application for treatment to be made within one year after a disqualifying discharge or release has been corrected, or the date of enactment of this exception, whichever is later.

Subsec. (g). Pub. L. 88–450 added subsec. (g).

Subsec. (h). Pub. L. 88–664 added subsec. (h).

1962—Subsec. (a). Pub. L. 87–583 provided for medical service to any veteran for a service-connected disability instead of to a veteran of any war, to a veteran discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or to a person who is in receipt of, but for the receipt of retirement pay would be entitled to, disability compensation.

1961—Subsecs. (b)(5), (e). Pub. L. 87–377 inserted ''or Indian wars'' after ''Spanish-American War''.

1960—Subsec. (f). Pub. L. 86–639 added subsec. (f).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–210 effective as of Aug. 2, 1990, see section 1(c)(1) of Pub. L. 103–210, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 to remain in effect through the period covered by Pub. L. 102–145, see section 111 of Pub. L. 102–145, set out as a note under section 1710 of this title.

Amendment by Pub. L. 101–508 to remain in effect through the period covered by Pub. L. 102–109, see section 111 of Pub. L. 102–109, set out as a note under section 1710 of this title.

Amendment by Pub. L. 101–508 applicable with respect to hospital care and medical services received after Nov. 5, 1990, see section 8013(d) of Pub. L. 101–508, as amended, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 101(a)–(c), (d)(2), (e)(1), (2), (f), (g)(1), (h)(1) of Pub. L. 100–322 applicable with respect to furnishing of medical services to veterans who apply for such services after June 30, 1988, see section 101(i) of Pub. L. 100–322, set out as a note under section 1703 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by section 237(b)(2) of Pub. L. 99–576 effective Apr. 7, 1986, see section 237(c) of Pub. L. 99–576, set out as a note under section 1710 of this title.

Amendment by section 19011(b) of Pub. L. 99–272 applicable to hospital care, nursing home care, and medical services furnished on or after July 1, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by section 5(b), (c) of Pub. L. 97–37 effective Oct. 1, 1981, see section 5(d) of Pub. L. 97–37, set out as a note under section 1710 of this title.

Section 2002(b) of Pub. L. 97–35 provided that:

''(b)(1) The amendments made by clauses (1)(A), (1)(C), and (2) of subsection (a) [amending this section] shall take effect on October 1, 1981.

''(2) The amendment made by clause (1)(B) of subsection (a) [amending this section] shall apply only to veterans discharged or released from active military, naval, or air service after September 30, 1981.''

EFFECTIVE DATE OF 1979 AMENDMENTS

Amendment by Pub. L. 96–151 effective Jan. 1, 1980, see section 206 of Pub. L. 96–151, set out as a note under section 111 of this title.

Amendment by section 102(b) of Pub. L. 96–22 effective Oct. 1, 1979, see section 107 of Pub. L. 96–22, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

SAVINGS PROVISION

Provisions of subsec. (a) of this section, as in effect on Oct. 8, 1996, to continue to apply on and after such date with respect to furnishing of hospital care, nursing home care, and medical services for any veteran who was furnished such care before Oct. 9, 1996, on the basis of presumed exposure to a substance of radiation, but only for treatment for disability for which such care or services were furnished before Oct. 9, 1996, see section 102(b) of Pub. L. 104–262, set out as a note under section 1710 of this title.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

DISABILITY OF VETERANS OF SPANISH-AMERICAN WAR

Section 101(g)(2) of Pub. L. 100–322, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 1712 or 1724 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty [sic] and, for the purposes of section 1712(b) of such title, to be compensable in degree.''

PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS

Section 113 of Pub. L. 100–322 authorized Administrator of Veterans' Affairs to conduct a pilot program under which eligible veterans residing in areas which are at least 100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics, provided that the pilot program be conducted for a period of not less than 24 months, and required Administrator to submit to Committees on Veterans' Affairs of Senate and House of Representatives interim and final reports on the project.

PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS

Section 115(a)–(f) of Pub. L. 100–322, as amended by Pub. L. 101–237, title II, § 201(c), Dec. 18, 1989, 103 Stat. 2066; Pub. L. 102–83, §§ 5(c)(2), 6(j)(1), Aug. 6, 1991, 105 Stat. 406, 409; Pub. L. 102–405, title I, § 107(h), Oct. 9, 1992, 106 Stat. 1978; Pub. L. 103–452, title I, § 103(e), Nov. 2, 1994, 108 Stat. 4787; Pub. L. 104–110, title I, § 102(a), Feb. 13, 1996, 110 Stat. 769; Pub. L. 104–275, title VI, § 601(a), Oct. 9, 1996, 110 Stat. 3344, provided for a pilot program to provide care and treatment in community-based facilities to homeless veterans suffering from chronic mental illness, prior to repeal by Pub. L. 105–114, title II, § 202(c)(4), Nov. 21, 1997, 111 Stat. 2287.

REPORT ON TREATMENT AND SERVICES FOR CHRONICALLY MENTALLY ILL VETERANS

Section 114 of Pub. L. 100–322 directed that the report required by section 235 of Pub. L. 99–576 [see below] include additional information about veterans being treated by the Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during fiscal years 1986, 1987, and 1988, and extended the deadline for submission of the report to not later than Dec. 15, 1988.

Section 235 of Pub. L. 99–576 directed Administrator to submit to Committees on Veterans' Affairs of Senate and House of Representatives not later than Dec. 15, 1987, a report on Administrator's current use of authority to contract for care and treatment, and for rehabilitative services, for chronically mentally ill veterans through various types of facilities and to furnish home health services to such veterans in such veterans' homes or in other settings in which they reside.

VETERANS DISCHARGED OR RELEASED FROM ACTIVE SERVICE WHO REENTERED SUCH SERVICE WITHIN ONE YEAR, AND WERE DISCHARGED OR RELEASED BEFORE AUGUST 13, 1981

Section 103(c) of Pub. L. 97–72, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''(1) Section 1712(b)(1)(B)(iii)(I) [now 1712(a)(1)(B)(iii)(I), formerly 612(b)(1)(B)(iii)(I)] of title 38, United States Code, shall apply only to veterans discharged or released from active military, naval, or air service after August 12, 1981.

''(2) A veteran who before August 13, 1981—

''(A) was discharged or released from active military, naval, or air service,

''(B) reentered such service within one year after the date of such discharge or release, and

''(C) was discharged or released from such subsequent service,

may be provided dental services and treatment in the same manner as provided for in section 1712(b) [now 1712(a), formerly 612(b)] of title 38, United States Code, if the veteran is otherwise eligible for such services and treatment and if application for such services and treatment is or was made within one year from the date of such subsequent discharge or release.''

STUDY OF HOME MODIFICATIONS FOR TOTALLY BLINDED SERVICE-CONNECTED VETERANS; REPORT NOT LATER THAN OCTOBER 1, 1979

Section 505 of Pub. L. 96–22 directed Administrator of Veterans' Affairs to submit a report to Committees on Veterans' Affairs of Senate and House of Representatives not later than Oct. 1, 1979, on needs of veterans who are totally blind from service-connected causes for home modifications the cost of which would exceed the amount allowable for such purposes under subsec. (a) of this section and on reasons why such veterans have not applied for home health services.

ANNUAL REPORT TO CONGRESS ON RESULTS OF REGULATIONS PRESCRIBED TO CARRY OUT SPECIAL PRIORITIES IN FURNISHING MEDICAL SERVICES

Section 103(b) of Pub. L. 94–581, as amended by Pub. L. 100–527, § 10(1), Oct. 25, 1988, 102 Stat. 2640; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that not later than one year after Oct. 21, 1976, and annually thereafter, the Secretary of Veterans Affairs was to report to the Congress on the results of the regulations prescribed to carry out former subsec. (i) of this section.

NOTIFICATION TO ELIGIBLE INDIVIDUALS OF EXPANDED CARE AND SERVICES AVAILABLE AS RESULT OF AMENDMENTS BY VETERANS OMNIBUS HEALTH CARE ACT OF 1976

Section 117(b) of Pub. L. 94–581 directed Administrator, not later than ninety days after Oct. 21, 1976, to take all appropriate steps to ensure that each individual eligible for new or expanded services as a result of amendments made by Veterans Omnibus Health Care Act of 1976 (Pub. L. 94–581) was personally notified about his or her eligibility and the way to secure care and services and directed Administrator to send copies of all notification forms to appropriate House and Senate committees, along with a description of how the forms were distributed.

§ 1712A. Eligibility for readjustment counseling and related mental health services

(a)(1)(A) Upon the request of any veteran referred to in subparagraph (B), the Secretary shall furnish counseling to the veteran to assist the veteran in readjusting to civilian life. Such counseling may include a general mental and psychological assessment of the veteran to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.

(B) Subparagraph (A) applies to the following veterans:

(i) Any veteran who served on active duty—

(I) in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during the Vietnam era; or

(II) after May 7, 1975, in an area at a time during which hostilities occurred in that area.

(ii) Any veteran (other than a veteran covered by clause (i)) who served on active duty during the Vietnam era who seeks or is furnished such counseling before January 1, 2004.

(2)(A) Upon the request of any veteran (other than a veteran covered by paragraph (1)) who served in the active military, naval, or air service in a theater of combat operations (as so determined) during a period of war, or in any other area during a period in which hostilities (as defined in subparagraph (B)) occurred in such area, the Secretary may furnish counseling to the veteran to assist the veteran in readjusting to civilian life.

(B) For the purposes of subparagraph (A), the term ''hostilities'' means an armed conflict in which the members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.

(b)(1) If, on the basis of the assessment furnished under subsection (a) of this section, a physician or psychologist employed by the Department (or, in areas where no such physician or psychologist is available, a physician or psychologist carrying out such function under a contract or fee arrangement with the Secretary) determines that the provision of mental health services to such veteran is necessary to facilitate the successful readjustment of the veteran to civilian life, such veteran shall, within the limits of Department facilities, be furnished such services on an outpatient basis. For the purposes of furnishing such mental health services, the counseling furnished under subsection (a) of this section shall be considered to have been furnished by the Department as a part of hospital care. Any hospital care and other medical services considered necessary on the basis of the assessment furnished under subsection (a) of this section shall be furnished only in accordance with the eligibility criteria otherwise set forth in this chapter (including the eligibility criteria set forth in section 1784 of this title).

(2) Mental health services furnished under paragraph (1) of this subsection may, if determined to be essential to the effective treatment and readjustment of the veteran, include such consultation, counseling, training, services, and expenses as are described in sections 1782 and 1783 of this title.

[(c) Repealed. Pub. L. 104–262, title III, § 331(b), Oct. 9, 1996, 110 Stat. 3198.]

(d) The Under Secretary for Health may provide for such training of professional, paraprofessional, and lay personnel as is necessary to carry out this section effectively, and, in carrying out this section, may utilize the services of paraprofessionals, individuals who are volunteers working without compensation, and individuals who are veteran-students (as described in section 3485 of this title) in initial intake and screening activities.

(e)(1) In furnishing counseling and related mental health services under subsections (a) and (b) of this section, the Secretary shall have available the same authority to enter into contracts with private facilities that is available to the Secretary (under sections 1703(a)(2) and 1710(a)(1)(B) of this title) in furnishing medical services to veterans suffering from total service-connected disabilities.

(2) Before furnishing counseling or related mental health services described in subsections (a) and (b) of this section through a contract facility, as authorized by this subsection, the Secretary shall approve (in accordance with criteria which the Secretary shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which the counseling or services are to be furnished.

(3) The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(f) The Secretary, in cooperation with the Secretary of Defense, shall take such action as the Secretary considers appropriate to notify veterans who may be eligible for assistance under this section of such potential eligibility.

(g)(1)(A) Except as provided in subparagraph (C) of this paragraph, the Secretary may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Secretary submits a revision to such plan in which the closure or relocation of that center is proposed.

(C) The Secretary may relocate a center in existence on January 1, 1988, without regard to the national plan (including any revision to such plan) if such relocation is to a new location away from a Department general health-care facility when such relocation is necessitated by circumstances beyond the control of the Depart-

ment. Such a relocation may be carried out only after the end of the 30-day period beginning on the date on which the Secretary notifies the Committees on Veterans' Affairs of the Senate and the House of Representatives of the proposed relocation, of the circumstances making it necessary, and of the reason for the selection of the new site for the center.

(2)(A) Not later than April 1, 1988, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's evaluation of the effectiveness in helping to meet the readjustment needs of veterans who served on active duty during the Vietnam era of the readjustment counseling and mental health services provided pursuant to this section (and of outreach efforts with respect to such counseling and services). Such report shall give particular attention, in light of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98–160), to the provision of such counseling and services to veterans with post-traumatic stress disorder and to the diagnosis and treatment of such disorder.

(B) The report required by subparagraph (A) of this paragraph shall include—

(i) the opinion of the Secretary with respect to (I) the extent to which the readjustment needs of veterans who served on active duty during the Vietnam era remain unmet, and (II) the extent to which the provision of readjustment counseling services under this section in centers is needed to meet such needs; and

(ii) in light of the opinion submitted pursuant to clause (i) of this subparagraph, such recommendations for amendments to this subsection and for other legislative and administrative action as the Secretary considers appropriate.

(3)(A) The Secretary, after considering the recommendations of the Under Secretary for Health, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Secretary's proposals as to each such center for a period (to be determined by the Secretary) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Secretary proposes to relocate the center to a general Department facility, relocate the center to a new location away from a general Department facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Secretary to open additional centers.

(B) The plan shall include the Secretary's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

(C) The Secretary shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Department facility and such distribution.

(ii) The distance between the center and the general Department facility.

(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

(iv) The availability of transportation to, and parking at, the center and the general Department facility.

(v) The availability, cost, and suitability of the space at the general Department facility.

(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Department facility.

(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

(viii) Such other factors as the Secretary determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

(D) For the purposes of this paragraph, the term ''general Department facility'' means a Department facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

(4) After submitting the plan required by paragraph (3) of this subsection, the Secretary may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Secretary's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.

[(h) Repealed. Pub. L. 102–83, § 4(b)(6), Aug. 6, 1991, 105 Stat. 405.]

(i) For the purposes of this section:

(1) The term ''center'' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Department for the provision of services under this section and which (A) is situated apart from Department general health-care facilities, or (B) was so situated but has been relocated to a Department general health-care facility.

(2) The term ''Department general health-care facility'' means a health-care facility which is operated by the Department for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.

(Added Pub. L. 96–22, title I, § 103(a)(1), June 13, 1979, 93 Stat. 48, § 612A; amended Pub. L. 96–128,

title V, § 501(b), Nov. 28, 1979, 93 Stat. 987; Pub. L. 97–72, title I, § 104(a)(1), (b), Nov. 3, 1981, 95 Stat. 1049; Pub. L. 98–160, title I, § 101, Nov. 21, 1983, 97 Stat. 993; Pub. L. 99–166, title I, §§ 105, 106, Dec. 3, 1985, 99 Stat. 944, 945; Pub. L. 99–272, title XIX, §§ 19011(d)(4), 19012(c)(3), Apr. 7, 1986, 100 Stat. 379, 382; Pub. L. 99–576, title II, § 204, title VII, § 702(6), Oct. 28, 1986, 100 Stat. 3255, 3302; Pub. L. 100–322, title I, § 107(a)–(e), May 20, 1988, 102 Stat. 494–496; Pub. L. 100–687, div. B, title XV, § 1501(a), Nov. 18, 1988, 102 Stat. 4132; Pub. L. 102–25, title III, § 334(d), Apr. 6, 1991, 105 Stat. 89; Pub. L. 102–54, § 14(b)(11), June 13, 1991, 105 Stat. 283; renumbered § 1712A and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), (6), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title I, § 101(d)(5), title III, § 331, Oct. 9, 1996, 110 Stat. 3180, 3197; Pub. L. 106–117, title II, § 205(a), Nov. 30, 1999, 113 Stat. 1563; Pub. L. 107–135, title II, § 208(e)(3)(A), Jan. 23, 2002, 115 Stat. 2463.)

REFERENCES IN TEXT

Section 102 of the Veterans' Health Care Amendments of 1983, referred to in subsec. (g)(2)(A), is section 102 of Pub. L. 98–160, title I, Nov. 21, 183, 97 Stat. 994, which was formerly set out below.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–135 substituted ''section 1784'' for ''section 1711(b)'' in par. (1) and ''sections 1782 and 1783'' for ''section 1701(6)(B)'' in par. (2).

1999—Subsec. (a)(1)(B)(ii). Pub. L. 106–117 substituted ''January 1, 2004'' for ''January 1, 2000''.

1996—Subsec. (a). Pub. L. 104–262, § 331(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

''(a)(1) Upon the request of any veteran who served on active duty during the Vietnam era, the Secretary shall, within the limits of Department facilities, furnish counseling to such veteran to assist such veteran in readjusting to civilian life. Such counseling shall include a general mental and psychological assessment to ascertain whether such veteran has mental or psychological problems associated with readjustment to civilian life.

''(2)(A) The Secretary shall furnish counseling as described in paragraph (1), upon request, to any veteran who served on active duty after May 7, 1975, in an area at a time during which hostilities occurred in such area.

''(B) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.''

Subsec. (b)(1). Pub. L. 104–262, § 101(d)(5)(A), struck out ''under the conditions specified in section 1712(a)(5)(B) of this title'' after ''furnished such services on an outpatient basis''.

Subsec. (c). Pub. L. 104–262, § 331(b), struck out subsec. (c) which read as follows: ''Upon receipt of a request for counseling under this section from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such counseling, the Secretary shall—

''(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside the Department; and

''(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Department for review of such individual's discharge or release from such service.''

Subsec. (e)(1). Pub. L. 104–262, § 101(d)(5)(B), substituted ''sections 1703(a)(2) and 1710(a)(1)(B)'' for ''sections 1712(a)(1)(B) and 1703(a)(2)''.

1992—Subsecs. (d), (g)(3)(A). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–83, § 5(a), renumbered section 612A of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (1).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in par. (1).

Pub. L. 102–25 designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1712(a)(5)(B)'' for ''612(a)(5)(B)'' and ''1711(b)'' for ''611(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–54 substituted ''section 612(a)(5)(B)'' for ''paragraph (1)(A)(ii) of section 612(f)''.

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted ''1701(6)(B)'' for ''601(6)(B)''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in pars. (1) and (2).

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''3485'' for ''1685''.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1712(a)(1)(B) and 1703(a)(2)'' for ''612(a)(1)(B) and 603(a)(2)'' in par. (1).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (g). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (h). Pub. L. 102–83, § 4(b)(6), struck out subsec. (h) which related to carrying out a pilot program to provide and coordinate services to meet the readjustment needs of veterans on active duty during the Vietnam era.

Subsec. (i). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1988—Subsec. (g)(1). Pub. L. 100–322, § 107(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''During the 24-month period ending on September 30, 1989, the Administrator shall take appropriate steps to ensure—

''(A) the orderly, gradual transition, by October 1, 1989, of that part of the program established under this section for the provision of readjustment counseling services by Veterans' Administration personnel from a program providing such services primarily through centers located in facilities situated apart from the health-care facilities operated by the Veterans' Administration for the provision of other health-care services under other provisions of this chapter to a program providing readjustment counseling services primarily through such health-care facilities; and

''(B) the continued availability after such date of readjustment counseling and related mental health services under this section to veterans eligible for the provision of such counseling and services who request such counseling.''

Subsec. (g)(1)(A). Pub. L. 100–687, § 1501(a)(1), substituted ''Except as provided in subparagraph (C) of this paragraph, the'' for ''The''.

Subsec. (g)(1)(C). Pub. L. 100–687, § 1501(a)(2), added subpar. (C).

Subsec. (g)(2)(A). Pub. L. 100–322, § 107(b), substituted ''April 1, 1988'' for ''April 1, 1987'' and struck out ''(or, if the study is not then completed, whatever information from it is then available)'' after ''(Public Law 98–160)''.

Subsec. (g)(2)(B)(i). Pub. L. 100–322, § 107(e)(1)(A), substituted ''in centers is needed'' for ''in a program providing such services through facilities situated apart from Veterans' Administration health-care facilities is needed''.

Subsec. (g)(2)(B)(ii). Pub. L. 100–322, § 107(e)(1)(B), substituted ''this subsection'' for ''paragraph (1) of this subsection''.

Subsec. (g)(3) to (5). Pub. L. 100–322, § 107(c), added pars. (3) to (5) and struck out former pars. (3) and (4) which read as follows:

''(3) Not later than July 1, 1987, the Administrator shall submit to such committees a report containing a description of the plans made and timetable for carrying out paragraph (1) of this subsection. Such report shall be prepared taking into consideration the results of the study referred to in paragraph (2)(A) of this subsection (or, if the study is not then completed, whatever information from it is then available).

''(4) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under as much of the transition as was carried out pursuant to paragraph (1) of this subsection before September 30, 1988, including such recommendations for legislative and administrative action as the Administrator considers appropriate in light of such experience.''

Subsec. (h)(3)(B). Pub. L. 100–322, § 107(e)(2)(A), substituted ''referred to as 'Resource Centers')'' for ''referred to as 'Centers')''.

Subsec. (h)(4), (5). Pub. L. 100–322, § 107(e)(2)(B), substituted ''Resource Center'' for ''Center'' wherever appearing.

Subsec. (i). Pub. L. 100–322, § 107(d), added subsec. (i).

1986—Subsec. (b)(1). Pub. L. 99–272, § 19011(d)(4)(A), substituted ''paragraph (1)(A)(ii)'' for ''clause (1)(B)''.

Subsec. (e)(1). Pub. L. 99–272, § 19012(c)(3), substituted ''603(a)(2)'' for ''601(4)(C)(ii)''.

Pub. L. 99–272, § 19011(d)(4)(B), substituted ''612(a)(1)(B)'' for ''612(f)(2)''.

Subsec. (g)(1). Pub. L. 99–576, § 204(a), substituted ''the 24-month period ending on September 30, 1989'' for ''the twelve-month period ending on September 30, 1988'' in introductory provision, and substituted ''orderly, gradual transition by October 1, 1989'' for ''orderly transition, by October 1, 1988'' in subpar. (A).

Subsec. (g)(2)(A). Pub. L. 99–576, § 204(b)(1), inserted ''(Pub. L. 98–160) (or, if the study is not then completed, whatever information from it is then available)'' after ''the Veterans' Health Care Amendments of 1983''.

Subsec. (g)(3). Pub. L. 99–576, § 204(b)(2), inserted at end ''Such report shall be prepared taking into consideration the results of the study referred to in paragraph (2)(A) of this subsection (or, if the study is not then completed, whatever information from it is then available).''

Subsec. (g)(4). Pub. L. 99–576, § 204(c), added par. (4).

Subsec. (h)(3)(A)(i). Pub. L. 99–576, § 702(6), substituted ''December 3, 1985,'' for ''the date of the enactment of this section''.

1985—Subsec. (g)(1)(B). Pub. L. 99–166, § 106, which directed the substitution of ''who request such counseling'' for ''who requested counseling before such date'', was executed by making the substitution for the phrase ''who requested such counseling before such date'' to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 99–166, § 105, added subsec. (h).

1983—Subsec. (a). Pub. L. 98–160, § 101(a), struck out ''if such veteran requests such counseling within two years after the date of such veteran's discharge or release from active duty, or by September 30, 1984, whichever is later'' after ''to assist such veteran in readjusting to civilian life''.

Subsec. (g)(1). Pub. L. 98–160, § 101(b)(1), substituted ''September 30, 1988'' for ''September 30, 1984'' in provisions preceding subpar. (A).

Subsec. (g)(1)(A). Pub. L. 98–160, § 101(b)(1), substituted ''October 1, 1988'' for ''October 1, 1984''.

Subsec. (g)(2). Pub. L. 98–160, § 101(b)(2), amended par. (2) generally, designating existing provisions as subpar. (A), substituting ''Not later than April 1, 1987, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's evaluation of the effectiveness in helping to meet the readjustment needs of veterans who served on active duty during the Vietnam era of the readjustment counseling and mental health services provided pursuant to this section (and of outreach efforts with respect to such counseling and services). Such report shall give particular attention, in light of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983, to the provision of such counseling and services to veterans with post-traumatic stress disorder and to the diagnosis and treatment of such disorder'' for ''Not later than April 1, 1984, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the plans made and actions taken to carry out this subsection'', and adding subpar. (B).

Subsec. (g)(3). Pub. L. 98–160, § 101(b)(2), added par. (3).

1981—Subsec. (a). Pub. L. 97–72, § 104(a)(1), substituted ''or by September 30, 1984'' for ''or two years after the effective date of this section''.

Subsec. (g). Pub. L. 97–72, § 104(b), added subsec. (g).

1979—Subsec. (d). Pub. L. 96–128 substituted ''title)'' for ''title),''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 19011(d)(4) of Pub. L. 99–272 applicable to hospital care, nursing home care, and medical services furnished on or after July 1, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 104(a)(2) of Pub. L. 97–72 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 107 of Pub. L. 96–22, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

STUDY OF POST-TRAUMATIC STRESS DISORDER IN VIETNAM VETERANS

Pub. L. 106–419, title II, § 212, Nov. 1, 2000, 114 Stat. 1843, provided that:

''(a) STUDY ON POST-TRAUMATIC STRESS DISORDER.—Not later than 10 months after the date of the enactment of this Act [Nov. 1, 2000], the Secretary of Veterans Affairs shall enter into a contract with an appropriate entity to carry out a study on post-traumatic stress disorder.

''(b) FOLLOW-UP STUDY.—The contract under subsection (a) shall provide for a follow-up study to the study conducted in accordance with section 102 of the Veterans Health Care Amendments of 1983 (Public Law 98–160) [set out as a note below]. Such follow-up study shall use the data base and sample of the previous study.

''(c) INFORMATION TO BE INCLUDED.—The study conducted pursuant to this section shall be designed to yield information on—

''(1) the long-term course of post-traumatic stress disorder;

''(2) any long-term medical consequences of post-traumatic stress disorder;

''(3) whether particular subgroups of veterans are at greater risk of chronic or more severe problems with such disorder; and

''(4) the services used by veterans who have post-traumatic stress disorder and the effect of those services on the course of the disorder.

''(d) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study under this section. The report shall be submitted no later than October 1, 2004.''

SPECIALIZED MENTAL HEALTH SERVICES

Pub. L. 106–117, title I, § 116, Nov. 30, 1999, 113 Stat. 1559, as amended by Pub. L. 108–170, title I, § 108, Dec. 6, 2003, 117 Stat. 2046, provided that:

''(a) IMPROVEMENT TO SPECIALIZED MENTAL HEALTH SERVICES.—The Secretary [of Veterans Affairs], in furtherance of the responsibilities of the Secretary under section 1706(b) of title 38, United States Code, shall carry out a program to expand and improve the provision of specialized mental health services to veterans. The Secretary shall establish the program in consultation with the Committee on Care of Severely Chronically Mentally Ill Veterans established pursuant to section 7321 of title 38, United States Code.

''(b) COVERED PROGRAMS.—For purposes of this section, the term 'specialized mental health services' includes programs relating to—

''(1) the treatment of post-traumatic stress disorder; and

''(2) substance use disorders.

''(c) FUNDING.—(1) In carrying out the program described in subsection (a), the Secretary shall identify, from funds available to the Department [of Veterans Affairs] for medical care, an amount of not less than $25,000,000 in each of fiscal years 2004, 2005, and 2006 to be available to carry out the program and to be allocated to facilities of the Department pursuant to subsection (d).

''(2) In identifying available amounts pursuant to paragraph (1), the Secretary shall ensure that, after the allocation of those funds under subsection (d), the total expenditure for programs relating to (A) the treatment of post-traumatic stress disorder, and (B) substance use disorders is not less than $25,000,000 in excess of the baseline amount.

''(3)(A) For purposes of paragraph (2), the baseline amount is the amount of the total expenditures on such programs for the most recent fiscal year for which final expenditure amounts are known, adjusted to reflect any subsequent increase in applicable costs to deliver such services in the Veterans Health Administration, as determined by the Committee on Care of Severely Chronically Mentally Ill Veterans.

''(B) For purposes of this paragraph, in fiscal years 2004, 2005, and 2006, the fiscal year used to determine the baseline amount shall be fiscal year 2003.

''(d) ALLOCATION OF FUNDS TO DEPARTMENT FACILITIES.—(1) In each of fiscal years 2004, 2005, and 2006, the Secretary shall allocate funds identified pursuant to subsection (c)(1) to individual medical facilities of the Department as the Secretary determines appropriate based upon proposals submitted by those facilities for the use of those funds for improvements to specialized mental health services.

''(2) In allocating funds to facilities in a fiscal year under paragraph (1), the Secretary shall ensure that—

''(A) not less than $10,000,000 is allocated by direct grants to programs that are identified by the Mental Health Strategic Health Care Group and the Committee on Care of Severely Chronically Mentally Ill Veterans;

''(B) not less than $5,000,000 is allocated for programs on post-traumatic stress disorder; and

''(C) not less than $5,000,000 is allocated for programs on substance use disorder.

''(3) The Secretary shall provide that the funds to be allocated under this section during each of fiscal years 2004, 2005, and 2006 are funds for a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

''(e) REPORT.—Not later than 12 months after the date of the enactment of this Act [Nov. 30, 1999], the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the implementation of this section. The Secretary shall include in the report information on the allocation of funds to facilities of the Department under the program and a description of the improvements made with those funds to specialized mental health services for veterans.''

MARRIAGE AND FAMILY COUNSELING FOR PERSIAN GULF WAR VETERANS

Section 121 of Pub. L. 102–405 provided that:

''(a) REQUIREMENT.—Subject to the availability of funds appropriated pursuant to the authorization in subsection (g), the Secretary shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The authority to conduct the program shall expire on September 30, 1994.

''(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

''(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses and children of such veterans; and

''(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses and children of such members.

''(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary), is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b)(1) or (2).

''(d) MANNER OF FURNISHING SERVICES.—(1) Marriage and family counseling services shall be furnished under the program—

''(A) by personnel of the Department of Veterans Affairs who are qualified to provide such counseling services;

''(B) by appropriately certified marriage and family counselors employed by the Department; and

''(C) by qualified mental health professionals pursuant to contracts with the Department, when Department facilities are not capable of furnishing economical medical services because of geographical inaccessibility or are not capable of furnishing the services required.

''(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

''(3) The Secretary may employ licensed or certified marriage and family counselors to provide counseling under paragraph (1)(B) and may classify the positions in which they are employed at levels determined appropriate by the Secretary, taking into consideration the training, experience, and licensure or certification required of such counselors.

''(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

''(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

''(B) For a 90-day period beginning on such date if—

''(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

''(ii) the treatment plan and the assessment made under subsection (c) are approved by an appropriate mental health professional of the Department designated for that purpose by the Under Secretary for Health.

''(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

''(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

''(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

''(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

''(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

''(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

''(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

''(5)(A) For the purposes of this subsection, the term 'treatment plan', with respect to a person entitled to counseling services under the program, must include—

''(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

''(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

''(B) The Secretary shall prescribe an appropriate form for the treatment plan.

''(f) COST RECOVERY.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

''(h) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the program conducted pursuant to this section. The report shall contain information regarding the persons furnished counseling services under the program, including—

''(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in subsection (b);

''(2) the age and gender of such persons;

''(3) the manner in which such persons were furnished such services under the program; and

''(4) the number of counseling sessions furnished to such persons.

''(i) DEFINITIONS.—For the purposes of this section, the terms 'veteran', 'child', 'active duty', 'reserve component', 'spouse', and 'Persian Gulf War' have the meanings given such terms in paragraphs 101(2), (4), (21), (27), (31), and (33) of section 101 of title 38, United States Code, respectively.''

POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING

Section 123 of Pub. L. 102–405 provided that:

''(a) PLAN.—The Secretary shall develop a plan—

''(1) to ensure, to the maximum extent practicable, that veterans suffering from post-traumatic stress disorder related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner;

''(2) to expand and improve the services available for veterans suffering from post-traumatic stress disorder related to active duty;

''(3) to eliminate waiting lists for inpatient treatment and other modes of treatment for post-traumatic stress disorder;

''(4) to enhance outreach activities carried out to inform combat-area veterans of the availability of treatment for post-traumatic stress disorder; and

''(5) to ensure, to the extent practicable, that there are Department post-traumatic stress disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.

''(b) CONSIDERATIONS.—In developing the plan referred to in subsection (a), the Secretary shall consider—

''(1) the numbers of veterans suffering from post-traumatic stress disorder related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information;

''(2) the numbers of veterans who would likely seek post-traumatic stress disorder treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with post-traumatic stress disorder were enhanced;

''(3) the current and projected capacity of the Department to provide appropriate treatment and rehabilitative services for post-traumatic stress disorder;

''(4) the level and geographic accessibility of inpatient and outpatient care available through the Department for veterans suffering from post-traumatic stress disorder across the United States;

''(5) the desirability of providing that inpatient and outpatient post-traumatic stress disorder care be furnished in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department;

''(6) the treatment needs of veterans suffering from post-traumatic stress disorder who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems in addition to post-traumatic stress disorder; and

''(7) the recommendations of the Special Committee on Post-Traumatic-Stress Disorder with respect to (A) specialized inpatient and outpatient programs of the Department for the treatment of post-traumatic stress disorder, and (B) with respect to the establishment of educational programs that are designed for each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from post-traumatic stress disorder.

''(c) REPORT.—Not later than six months after the date of the enactment of this Act [Oct. 9, 1992], the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (a).

The report shall include specific information relating to the consideration given to the matters described in subsection (b).

''(d) DEFINITIONS.—For the purposes of this section:

''(1) The term 'active duty' has the meaning given that term in section 101(21) of title 38, United States Code.

''(2) The term 'veteran' has the meaning given that term in section 101(2) of such title.

''(3) The term 'combat-area veteran' means a veteran who served on active duty in an area at a time during which hostilities (as defined in section 1712A(a)(2)(B) of such title) occurred in such area.''

UPDATES OF REPORTS ON POST-TRAUMATIC STRESS DISORDER

Section 122(b) of Pub. L. 102–405 directed Special Committee on Post-Traumatic-Stress Disorder, not later than Oct. 1, 1992, and Oct. 1, 1993, to concurrently submit to Secretary and Committees on Veterans' Affairs of Senate and House of Representatives a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life, and directed Secretary, not later than 90 days after receiving each of the reports to submit to the committees any comments concerning the report that the Secretary considered appropriate. Similar provisions were contained in Pub. L. 101–237, title II, § 201(e), Dec. 18, 1989, 103 Stat. 2066, as amended by Pub. L. 101–366, title II, § 204, Aug. 15, 1990, 104 Stat. 439.

AUTHORIZATION FOR RELOCATION OF CERTAIN FACILITIES

Section 1501(b) of Pub. L. 100–687 related to relocation of 17 Veterans' Administration Readjustment Counseling Service Vet Centers from their locations away from general Veterans' Administration health-care facilities to other such locations.

PROHIBITION OF DELEGATION OF DUTIES

Section 107(f) of Pub. L. 100–322, as amended by Pub. L. 100–527, § 10(4), Oct. 25, 1988, 102 Stat. 2641; Pub. L. 102–40, § 2(b), May 7, 1991, 105 Stat. 187; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''The Chief Medical Director [now Under Secretary for Health] of the Department of Veterans Affairs may not delegate the function of making recommendations under section 1712A(g)(3)(A) [formerly 612A(g)(3)(A)] of title 38, United States Code, as amended by subsection (c).''

POST-TRAUMATIC-STRESS DISORDER; DIAGNOSIS AND TREATMENT; EDUCATION AND TRAINING OF HEALTH-CARE PERSONNEL; COORDINATION WITH READJUSTMENT COUNSELING; SPECIAL COMMITTEE; NATIONAL CENTER; COMPILATION AND PUBLICATION OF RESEARCH RESULTS; REPORTS TO CONGRESSIONAL COMMITTEES

Pub. L. 98–528, title I, § 110, Oct. 19, 1984, 98 Stat. 2691, as amended by Pub. L. 106–117, title II, § 206, Nov. 30, 1999, 113 Stat. 1563; Pub. L. 108–170, title IV, § 405(e), Dec. 6, 2003, 117 Stat. 2063, provided that:

''(a)(1) The Under Secretary for Health of the Department of Veterans Affairs may designate special programs within the Veterans Health Administration for the diagnosis and treatment of post-traumatic-stress disorder (hereinafter in this section referred to as 'PTSD').

''(2) The Under Secretary for Health shall direct (A) that (in addition to providing diagnostic and treatment services for PTSD) Department programs designated under paragraph (1) (hereinafter in this section referred to as 'designated PTSD programs') carry out activities to promote the education and training of health-care personnel (including health-care personnel not working for the Department or the Federal Government) in the causes, diagnosis, and treatment of PTSD, and (B) that (when appropriate) the provision of treatment services under such program be coordinated with the provision of readjustment counseling services under section 1712A of title 38, United States Code.

''(b)(1) The Under Secretary for Health shall establish in the Veterans Health Administration a Special Committee on Post-Traumatic-Stress Disorder (hereinafter in this section referred to as the 'Special Committee'). The Under Secretary for Health shall appoint qualified employees of the Veterans Health Administration to serve on the Special Committee.

''(2) The Special Committee shall assess, and carry out a continuing assessment of, the capacity of the Department to provide diagnostic and treatment services for PTSD to veterans eligible for health care furnished by the Department.

''(3) The Special Committee shall also advise the Under Secretary for Health regarding the development of policies, the provision of guidance, and the coordination of services for the diagnosis and treatment of PTSD (A) in designated PTSD programs, (B) in inpatient psychiatric programs and outpatient mental health programs other than designated PTSD programs, and (C) in readjustment counseling programs of the Department.

''(4) The Special Committee shall also make recommendations to the Under Secretary for Health for guidance with respect to PTSD regarding—

''(A) appropriate diagnostic and treatment methods;

''(B) referral for and coordination of followup care;

''(C) the evaluation of PTSD treatment programs;

''(D) the conduct of research concerning such diagnosis and treatment (taking into account the provisions of subsection (c));

''(E) special programs of education and training for employees of the Veterans Health Administration and the Veterans Benefits Administration (also taking into account such provisions);

''(F) the appropriate allocation of resources for all such activities; and

''(G) any specific steps that should be taken to improve such diagnosis and treatment and to correct any deficiencies in the operations of designated PTSD programs.

''(c) The Under Secretary for Health shall establish and operate in the Veterans Health Administration a National Center on Post-Traumatic-Stress Disorder. The National Center (1) shall carry out and promote the training of health care and related personnel in, and research into, the causes and diagnosis of PTSD and the treatment of veterans for PTSD, and (2) shall serve as a resource center for, and promote and seek to coordinate the exchange of information regarding, all research and training activities carried out by the Department, and by other Federal and non-Federal entities, with respect to PTSD.

''(d) The Under Secretary for Health shall regularly compile and publish the results of research that has been conducted relating to PTSD.

''(e)(1) Not later than March 1, 2000, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

''(A) A list of the members of the Special Committee.

''(B) A list of all designated PTSD programs and other programs providing treatment for PTSD, together with a description of the resources that have been allocated for the development and operation of each such program, a description of the education and training that has been provided for Department health-care personnel in such programs and elsewhere within the Department in the diagnosis and treatment of PTSD, and specification of the funding that has been allocated to each such program and else-

where within the Department to support research relating to PTSD.

''(C) The assessment of the Under Secretary for Health of the Department, after consultation with the Special Committee, regarding the capability of the Department to meet the needs for inpatient and outpatient PTSD diagnosis and treatment (both through designated PTSD programs and otherwise) of veterans who served in the Republic of Vietnam during the Vietnam era, former prisoners of war, and other veterans eligible for health care from the Department and the efficacy of the treatment so provided, as well as a description of the results of any evaluations that have been made of PTSD treatment programs.

''(D) The plans of the Special Committee for further assessments of the capability of the Department to diagnose and treat veterans with PTSD.

''(E) The recommendations made by the Special Committee to the Under Secretary for Health and the views of the Under Secretary for Health on such recommendations.

''(F) A summary of the results of research conducted by the Department relating to PTSD.

''(G) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied to implement subsections (b) and (c).

''(H) The assessment of the Administrator [now Secretary] of the capacity of the Department to meet in all geographic areas of the United States the needs described in subparagraph (C) and any plans and timetable for increasing that capacity (including the costs of such action).

''(2) Not later than February 1, 2001, and May 1 of each year through 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection since the enactment of the Veterans' Millennium Health Care and Benefits Act [Nov. 30, 1999].''

STUDY OF POST-TRAUMATIC STRESS DISORDER AND OTHER POST-WAR PSYCHOLOGICAL PROBLEMS

Section 102 of Pub. L. 98–160, as amended by Pub. L. 99–576, title II, § 216, Oct. 28, 1986, 100 Stat. 3259, directed Administrator of Veterans' Affairs to provide for the conducting of a comprehensive study of prevalence and incidence in population of Vietnam veterans of post-traumatic stress disorder and other psychological problems of readjusting to civilian life and effects of such problems on such veterans and directed Administrator to submit to Committees on Veterans' Affairs of Senate and House of Representatives not later than Oct. 1, 1986, a report on results of study.

READJUSTMENT COUNSELING AND RELATED MENTAL HEALTH SERVICES FOR VETERANS OF WAR DECLARED AFTER JUNE 13, 1979

Section 103(b) of Pub. L. 96–22, as amended by Pub. L. 102–83, §§ 5(c)(2), 6(d), Aug. 6, 1991, 105 Stat. 406, 407, provided that: ''In the event of a declaration of war by the Congress after June 13, 1979, the Secretary of Veterans Affairs, not later than six months after the date of such declaration, shall determine and recommend to the Congress whether eligibility for the readjustment counseling and related mental health services provided for in section 1712A [formerly 612A] of title 38, United States Code (as added by subsection (a) of this section) should be extended to the veterans of such war.''

§ 1712B. Counseling for former prisoners of war

The Secretary may establish a program under which, upon the request of a veteran who is a former prisoner of war, the Secretary, within the limits of Department facilities, furnishes counseling to such veteran to assist such veteran in overcoming the psychological effects of the veteran's detention or internment as a prisoner of war.

(Added Pub. L. 99–166, title I, § 107(a), Dec. 3, 1985, 99 Stat. 945, § 612B; renumbered § 1712B and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 612B of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

[§ 1713. Renumbered § 1781]

PRIOR PROVISIONS

A prior section 1713 was renumbered section 3513 of this title.

§ 1714. Fitting and training in use of prosthetic appliances; guide dogs; service dogs

(a) Any veteran who is entitled to a prosthetic appliance shall be furnished such fitting and training, including institutional training, in the use of such appliance as may be necessary, whether in a Department facility or other training institution, or by outpatient treatment, including such service under contract, and including travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) to and from such veteran's home to such hospital or training institution.

(b) The Secretary may provide guide dogs trained for the aid of the blind to veterans who are enrolled under section 1705 of this title. The Secretary may also provide such veterans with mechanical or electronic equipment for aiding them in overcoming the disability of blindness.

(c) The Secretary may, in accordance with the priority specified in section 1705 of this title, provide—

(1) service dogs trained for the aid of the hearing impaired to veterans who are hearing impaired and are enrolled under section 1705 of this title; and

(2) service dogs trained for the aid of persons with spinal cord injury or dysfunction or other chronic impairment that substantially limits mobility to veterans with such injury, dysfunction, or impairment who are enrolled under section 1705 of this title.

(d) In the case of a veteran provided a dog under subsection (b) or (c), the Secretary may pay travel and incidental expenses for that veteran under the terms and conditions set forth in section 111 of this title to and from the veteran's home for expenses incurred in becoming adjusted to the dog.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, § 614; Pub. L. 93–82, title I, § 103(b), Aug. 2, 1973, 87 Stat. 181; Pub. L. 94–581, title II, § 210(a)(5), Oct. 21, 1976, 90 Stat. 2862; Pub. L. 96–151, title II, § 201(c), Dec. 20, 1979, 93 Stat. 1093; renumbered § 1714 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 107–135, title II, § 201(a), (b)(1), Jan. 23, 2002, 115 Stat. 2456, 2457.)

PRIOR PROVISIONS

Prior section 1714 was renumbered section 3514 of this title.

Provisions similar to those comprising subsec. (a) of this section were classified to section 613 of this title prior to repeal by section 103(b) of Pub. L. 93–82.

AMENDMENTS

2002—Pub. L. 107–135, § 201(b)(1), substituted ''guide dogs; service dogs'' for ''seeing-eye dogs'' in section catchline.

Subsec. (b). Pub. L. 107–135, § 201(a)(1), struck out ''seeing-eye or'' after ''may provide'', substituted ''who are enrolled under section 1705 of this title'' for ''who are entitled to disability compensation, and may pay travel and incidental expenses (under the terms and conditions set forth in section 111 of this title) to and from their homes and incurred in becoming adjusted to such seeing-eye or guide dogs'', and substituted ''disability'' for ''handicap''.

Subsecs. (c), (d). Pub. L. 107–135, § 201(a)(2), added subsecs. (c) and (d).

1991—Pub. L. 102–83, § 5(a), renumbered section 614 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1979—Subsec. (a). Pub. L. 96–151, § 201(c)(1), substituted provisions respecting travel and incidental expenses for provisions respecting necessary travel expenses.

Subsec. (b). Pub. L. 96–151, § 201(c)(2), substituted provisions respecting travel and incidental expenses for provisions respecting all necessary travel expenses.

1976—Subsec. (a). Pub. L. 94–581, § 210(a)(5)(A), substituted ''such veteran's home'' for ''his home''.

Subsec. (b). Pub. L. 94–581, § 210(a)(5)(B), substituted ''and may pay'' for ''and he may pay''.

1973—Pub. L. 93–82 designated existing provisions as subsec. (b) and added subsec. (a).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–151 effective Jan. 1, 1980, see section 206 of Pub. L. 96–151, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

§ 1715. Tobacco for hospitalized veterans

The Secretary may furnish tobacco to veterans receiving hospital or domiciliary care.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, § 615; renumbered § 1715 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 615 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

USE OF TOBACCO PRODUCTS IN DEPARTMENT OF VETERANS AFFAIRS FACILITIES

Pub. L. 102–585, title V, § 526, Nov. 4, 1992, 106 Stat. 4961, provided that:

''(a) IN GENERAL.—The Secretary of Veterans Affairs shall take appropriate actions to ensure that, consistent with medical requirements and limitations, each facility of the Department described in subsection (b)—

''(1) establishes and maintains—

''(A) a suitable indoor area in which patients or residents may smoke and which is ventilated in a manner that, to the maximum extent feasible, prevents smoke from entering other areas of the facility; or

''(B) an area in a building that—

''(i) is detached from the facility;

''(ii) is accessible to patients or residents of the facility; and

''(iii) has appropriate heating and air conditioning; and

''(2) provides access to an area established and maintained under paragraph (1), consistent with medical requirements and limitations, for patients or residents of the facility who are receiving care or services and who desire to smoke tobacco products.

''(b) COVERED FACILITIES.—A Department facility referred to in subsection (a) is any Department of Veterans Affairs medical center, nursing home, or domiciliary care facility.

''(c) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act [Nov. 4, 1992], the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility of the establishment and maintenance of areas for smoking in Department facilities under this section. The report shall include information on—

''(A) the cost of, and a proposed schedule for, the establishment of such an area at each Department facility covered by this section;

''(B) the extent to which the ventilating system of each facility is adequate to ensure that use of the area for smoking does not result in health problems for other patients or residents of the facility; and

''(C) the effect of the establishment and maintenance of an area for smoking in each facility on the accreditation score issued for the facility by the Joint Commission on the Accreditation of Health Organizations.

''(2) Not later than 120 days after the effective date of this section, the Secretary shall submit to the committees referred to in paragraph (1) a report on the implementation of this section. The report shall include a description of the actions taken at each covered facility to ensure compliance with this section.

''(d) EFFECTIVE DATE.—The requirement to establish and maintain areas for smoking under subsection (a) shall take effect 60 days after the date on which the Comptroller General submits to the committees referred to in subsection (c)(1) that report required under that subsection.''

§ 1716. Hospital care by other agencies of the United States

When so specified in an appropriation or other Act, the Secretary may make allotments and transfers to the Departments of Health and Human Services (Public Health Service), the Army, Navy, Air Force, or Interior, for disbursement by them under the various headings of their appropriations, of such amounts as are necessary for the care and treatment of veterans entitled to hospitalization from the Department under this chapter. The amounts to be charged the Department for care and treatment of veterans in hospitals shall be calculated on the basis of a per diem rate approved by the Office of Management and Budget.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, § 616; Pub. L. 94–581, title II, § 202(g), Oct. 21, 1976, 90 Stat. 2856; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; renumbered § 1716 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 616 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

1982—Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1976—Pub. L. 94–581 substituted ''Office of Management and Budget'' for ''Bureau of the Budget''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1717. Home health services; invalid lifts and other devices

(a)(1) As part of medical services furnished to a veteran under section 1710(a) of this title, the Secretary may furnish such home health services as the Secretary finds to be necessary or appropriate for the effective and economical treatment of the veteran.

(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

(A) $4,100 in the case of medical services furnished under section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title; or

(B) $1,200 in the case of medical services furnished under any other provision of section 1710(a) of this title.

(3) The Secretary may furnish home health services to a veteran in any setting in which the veteran is residing. The Secretary may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.

(b) The Secretary may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, to any veteran who is receiving (1) compensation under section 1114(*l*)–(p) of this title (or the comparable rates provided pursuant to section 1134 of this title), or (2) pension under chapter 15 of this title by reason of being in need of regular aid and attendance.

(c) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.

(Added Pub. L. 86–211, § 5, Aug. 29, 1959, 73 Stat. 435, § 617; amended Pub. L. 88–450, § 6(a), (c), Aug. 19, 1964, 78 Stat. 504; Pub. L. 90–77, title I, § 109, Aug. 31, 1967, 81 Stat. 180; Pub. L. 90–493, § 3(a), Aug. 19, 1968, 82 Stat. 809; Pub. L. 97–295, § 4(18), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 98–528, title I, § 107, Oct. 19, 1984, 98 Stat. 2690; Pub. L. 99–576, title II, § 202(2), Oct. 28, 1986, 100 Stat. 3254; Pub. L. 100–322, title I, § 101(d), May 20, 1988, 102 Stat. 491; renumbered § 1717 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title I, § 101(a), Oct. 9, 1992, 106 Stat. 1973; Pub. L. 104–262, title I, § 101(d)(6), Oct. 9, 1996, 110 Stat. 3180; Pub. L. 105–114, title IV, § 402(b), Nov. 21, 1997, 111 Stat. 2294.)

AMENDMENTS

1997—Subsec. (a)(1). Pub. L. 105–114, § 402(b)(1), substituted ''treatment of the veteran'' for ''treatment of the veteran's disability''.

Subsec. (a)(2)(B). Pub. L. 105–114, § 402(b)(2), substituted ''section 1710(a)'' for ''section 1710(a)(2)''.

1996—Subsec. (a)(1). Pub. L. 104–262, § 101(d)(6)(A), substituted ''section 1710(a)'' for ''section 1712(a)''.

Subsec. (a)(2)(A). Pub. L. 104–262, § 101(d)(6)(B)(i), substituted ''section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title'' for ''paragraph (1) of section 1712(a) of this title''.

Subsec. (a)(2)(B). Pub. L. 104–262, § 101(d)(6)(B)(ii), substituted ''section 1710(a)(2)'' for ''section 1712''.

1992—Subsec. (a)(2). Pub. L. 102–405 substituted ''$4,100'' for ''$2,500'' in subpar. (A) and ''$1,200'' for ''$600'' in subpar. (B).

1991—Pub. L. 102–83, § 5(a), renumbered section 617 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1712(a)'' for ''612(a)'' in pars. (1) and (2)(A) and ''1712'' for ''612'' in par. (2)(B).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing in pars. (1) and (3).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1114(*l*)–(p)'' for ''314(*l*)–(p)'' and ''1134'' for ''334''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Pub. L. 100–322, § 101(d)(3), substituted ''Home health services; invalid'' for ''Invalid'' in section catchline.

Subsec. (a). Pub. L. 100–322, § 101(d)(1)(B), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (a)(3). Pub. L. 100–322, § 101(d)(2), transferred subsec. (k) of section 612 of this title to subsec. (a) of this section and redesignated it as par. (3).

Subsecs. (b), (c). Pub. L. 100–322, § 101(d)(1)(A), redesignated subsecs. (a) and (b) as (b) and (c), respectively.

1986—Subsec. (a)(3) [formerly § 612(k)]. Pub. L. 99–576 added subsec. (k). See 1988 Amendment note above.

1984—Pub. L. 98–528 designated existing provision as subsec. (a) and added subsec. (b).

1982—Pub. L. 97–295 substituted ''section 314(*l*)–(p) of this title (or the comparable rates provided pursuant to section 334 of this title)'' for ''subsections 314(*l*)–(p) (or the comparable rates provided pursuant to section 334) of this title''.

1968—Pub. L. 90–493 substituted ''Invalid lifts and other devices'' for ''Invalid lifts and other devices for pensioners'' in section catchline, and inserted provisions authorizing the Administrator to furnish lifts and other devices to any veteran who is receiving compensation under subsections 314(*l*)–(p) (or the comparable rates provided pursuant to section 334) of this title.

1967—Subsec. (b). Pub. L. 90–77 substituted ''to any veteran in receipt of pension under chapter 15 of this title based on need of regular aid and attendance'' for ''to any veteran who is eligible to receive an invalid lift under subsection (a) of this section, or who would be so eligible, but for the fact that he has such a lift''.

1964—Pub. L. 88–450 inserted ''and other devices'' in section catchline, designated existing provisions of section as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 101(b) of Pub. L. 102–405 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to a veteran who first applies for benefits under section 1717(a)(2) of title 38, United States Code, after December 31, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–322 applicable with respect to furnishing of medical services to veterans who apply for such services after June 30, 1988, see section 101(i) of Pub. L. 100–322, set out as a note under section 1703 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as an Effective Date of 1959 Amendment note under section 1521 of this title.

APPLICABILITY OF INCREASE IN GRANT LIMITS

Section 101(c) of Pub. L. 102–405 provided that: ''A veteran who exhausts such veteran's eligibility for benefits under section 1717(a)(2) of title 38, United States Code, before January 1, 1990, is not entitled to additional benefits under such section by reason of the amendments made by subsection (a) [amending this section].''

§ 1718. Therapeutic and rehabilitative activities

(a) In providing rehabilitative services under this chapter, the Secretary, upon the recommendation of the Under Secretary for Health, may use the services of patients and members in Department health care facilities for therapeutic and rehabilitative purposes. Such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose. The Secretary shall prescribe the conditions for the use of such services.

(b)(1) In furnishing rehabilitative services under this chapter, the Secretary, upon the recommendation of the Under Secretary for Health, may enter into a contract or other arrangement with any appropriate source (whether or not an element of the Department of Veterans Affairs or of any other Federal entity) to provide for therapeutic work for patients and members in Department health care facilities.

(2) Notwithstanding any other provision of law, the Secretary may also furnish rehabilitative services under this subsection through contractual arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Secretary shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such contractual arrangements.

(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Department of Veterans Affairs Special Therapeutic and Rehabilitation Activities Fund (hereinafter in this section referred to as the ''fund'') for the purpose of furnishing rehabilitative services authorized in subsection (b) or (d). Such amounts of the fund as the Secretary may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Secretary.

(2) All funds received by the Department under contractual arrangements made under subsection (b) or (d), or by nonprofit entities described in subsection (b)(2), shall be deposited in or credited to the fund, and the Secretary shall distribute out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

(3) The Under Secretary for Health shall prepare, for inclusion in the annual report submitted to Congress under section 529 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and rates of distribution) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

(d) In providing to a veteran rehabilitative services under this chapter, the Secretary may furnish the veteran with the following:

(1) Work skills training and development services.

(2) Employment support services.

(3) Job development and placement services.

(e) In providing rehabilitative services under this chapter, the Secretary shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

(f) The Secretary shall prescribe regulations to ensure that the priorities set forth in section 1705 of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.

(g)(1) The Secretary may not consider any of the matters stated in paragraph (2) as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

(2) Paragraph (1) applies to the following:

(A) A veteran's participation in an activity carried out under this section.

(B) A veteran's receipt of a distribution as a result of participation in an activity carried out under this section.

(C) A veteran's participation in a program of rehabilitative services that (i) is provided as part of the veteran's care furnished by a State home and (ii) is approved by the Secretary as conforming appropriately to standards for activities carried out under this section.

(D) A veteran's receipt of payment as a result of participation in a program described in subparagraph (C).

(3) A distribution of funds made under this section and a payment made to a veteran under a program of rehabilitative services described in paragraph (2)(C) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.

(Added Pub. L. 87–574, § 2(1), Aug. 6, 1962, 76 Stat. 308, § 618; amended Pub. L. 94–581, title I, § 105(a), Oct. 21, 1976, 90 Stat. 2845; Pub. L. 98–543, title III, § 303, Oct. 24, 1984, 98 Stat. 2748; Pub. L. 99–576, title II, § 205, Oct. 28, 1986, 100 Stat. 3256; Pub. L. 102–54, §§ 10, 14(b)(12), June 13, 1991, 105 Stat. 273, 284; renumbered § 1718 and amended Pub. L. 102–83, §§ 2(c)(3), 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402, 404–406; Pub. L. 102–86, title V, § 506(a)(1), Aug. 14, 1991, 105 Stat. 426; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 102–585, title IV, § 401, Nov. 4, 1992, 106 Stat. 4953; Pub. L. 103–446, title XII, § 1201(i)(1), Nov. 2, 1994, 108 Stat. 4688; Pub. L. 104–262, title I, § 101(d)(7), Oct. 9, 1996, 110 Stat. 3180; Pub. L. 108–170, title I, § 104(b), Dec. 6, 2003, 117 Stat. 2045.)

REFERENCES IN TEXT

The Fair Labor Standards Act, referred to in subsec. (c)(2), probably means the Fair Labor Standards Act of 1938, act June 25, 1938, ch. 676, 52 Stat. 1060, as amended, which is classified generally to chapter 8 (§ 201 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see section 201 of Title 29 and Tables.

AMENDMENTS

2003—Subsec. (c)(1). Pub. L. 108–170, § 104(b)(2)(A), substituted ''subsection (b) or (d)'' for ''subsection (b) of this section''.

Subsec. (c)(2). Pub. L. 108–170, § 104(b)(2)(B), substituted ''subsection (b) or (d)'' for ''subsection (b) of this section'' and ''subsection (b)(2)'' for ''paragraph (2) of such subsection''.

Subsecs. (d) to (g). Pub. L. 108–170, § 104(b)(1), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

1996—Subsec. (e). Pub. L. 104–262 substituted ''section 1705'' for ''section 1712(i)''.

1994—Subsec. (c)(1). Pub. L. 103–446 substituted ''Department of Veterans Affairs'' for ''Department''.

1992—Subsecs. (a), (b)(1), (c)(3). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

Subsec. (f). Pub. L. 102–585 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(1) Neither a veteran's participation in an activity carried out under this section nor a veteran's receipt of a distribution as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

''(2) A distribution of funds made under this section shall be considered for purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.''

1991—Pub. L. 102–83, § 5(a), renumbered section 618 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–54, § 10(a), substituted ''a contract or other arrangement with any appropriate source (whether or not an element of the Department of Veterans Affairs or of any other Federal entity)'' for ''contractual arrangements with private industry or other sources outside the Veterans' Administration''.

Subsec. (b)(2). Pub. L. 102–86 amended subsec. (b)(2) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''arrangements'' for ''arangements'' in first sentence.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (c)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–54, § 10(b), substituted ''furnishing rehabilitative services authorized in'' for ''carrying out the provisions of''.

Subsec. (c)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c)(3). Pub. L. 102–83, § 2(c)(3), substituted ''section 529'' for ''section 214''.

Pub. L. 102–54, § 14(b)(12), inserted ''and'' after ''productivity''.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1712(i)'' for ''612(i)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (a). Pub. L. 99–576, § 205(1), substituted ''may use'' for ''may utilize'', ''purposes. Such'' for ''purposes, at nominal remuneration, and such'', and ''use'' for ''utilization''.

Subsec. (b)(1). Pub. L. 99–576, § 205(2), struck out ''for remuneration'' after ''therapeutic work''.

Subsec. (c)(2), (3). Pub. L. 99–576, § 205(3), substituted ''distribute'' for ''pay'' in par. (2), and substituted ''rates of distribution'' for ''and wage rates'' in par. (3).

Subsec. (f). Pub. L. 99–576, § 205(4), designated existing provisions as par. (1), substituted ''a distribution'' for ''remuneration'', and added par. (2).

1984—Subsec. (f). Pub. L. 98–543 added subsec. (f).

1976—Subsec. (a). Pub. L. 94–581, § 105(a)(1), (2), designated existing provisions as subsec. (a) and substituted ''In providing rehabilitative services under this chapter, the'' for ''The'' and ''health care facilities'' for ''hospitals and domiciliaries''.

Subsecs. (b) to (e). Pub. L. 94–581, § 105(a)(3), added subsecs. (b) to (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY AND THERAPEUTIC TRANSITIONAL HOUSING

Section 7 of Pub. L. 102–54, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–86, title V, § 501, Aug. 14, 1991, 105 Stat. 424; Pub. L. 103–452, title I, § 103(f), Nov. 2, 1994, 108 Stat. 4787; Pub. L. 104–110, title I, § 102(b), Feb. 13, 1996, 110 Stat. 769, authorized Secretary of Veterans' Affairs, between Oct. 1, 1991, and Dec. 31, 1997, to carry out compensated work therapy and therapeutic transitional housing demonstration program, prior to repeal by Pub. L. 105–114, title II, § 202(c)(1), Nov. 21, 1997, 111 Stat. 2287.

SETTLEMENT OF CLAIMS

Section 105(b) of Pub. L. 94–581, as amended by Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067; Pub. L. 102–83, § 6(a), Aug. 6, 1991, 105 Stat. 407, provided that:

''(1) The Secretary of Veterans Affairs may settle claims made by the Department of Veterans Affairs against any private nonprofit corporation organized under the laws of any State, for the use of facilities and personnel of the Department in work projects as a part of a therapeutic or rehabilitation program for patients and members in health care facilities of the Department, and to execute a binding release of all claims by the United States against any such corporation, in such amounts, and upon such terms and conditions as the Secretary considers appropriate.

''(2) For the purposes of this subsection, notwithstanding section 3302 of title 31, or any other provision of law, the Secretary may utilize any funds received under any settlement made pursuant to paragraph (1) of this subsection for any purpose agreed upon by the Secretary and such corporation.''

§ 1719. Repair or replacement of certain prosthetic and other appliances

The Secretary may repair or replace any artificial limb, truss, brace, hearing aid, spectacles, or similar appliance (not including dental appliances) reasonably necessary to a veteran and belonging to such veteran which was damaged or destroyed by a fall or other accident caused by a service-connected disability for which such veteran is in receipt of, or but for the receipt of retirement pay would be entitled to, disability compensation.

(Added Pub. L. 87–850, § 1(a), Oct. 23, 1962, 76 Stat. 1126, § 619; amended Pub. L. 94–581, title II, § 210(a)(6), Oct. 21, 1976, 90 Stat. 2862; renumbered § 1719 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 619 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1976—Pub. L. 94–581 substituted ''belonging to such veteran'' for ''belonging to him''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section 2 of Pub. L. 87–850 provided that: ''The amendment made by this Act [enacting this section] shall apply only with respect to the repair or replacement of artificial limbs, trusses, braces, hearing aids, spectacles, and similar devices damaged or destroyed after the date of enactment of this Act [Oct. 23, 1962].''

§ 1720. Transfers for nursing home care; adult day health care

(a)(1) Subject to subsection (b) of this section, the Secretary may transfer to a non-Department nursing home, for care at the expense of the United States—

(A) a veteran—

(i) who has been furnished care by the Secretary in a facility under the direct jurisdiction of the Secretary; and

(ii) who the Secretary determines—

(I) requires a protracted period of nursing home care which can be furnished in the non-Department nursing home; and

(II) in the case of a veteran who has been furnished hospital care in a facility under the direct jurisdiction of the Secretary, has received maximum benefits from such care; and

(B) a member of the Armed Forces—

(i) who has been furnished care in a hospital of the Armed Forces;

(ii) who the Secretary concerned determines has received maximum benefits from such care but requires a protracted period of nursing home care; and

(iii) who upon discharge from the Armed Forces will become a veteran.

(2) The Secretary may transfer a person to a nursing home under this subsection only if the Secretary determines that the cost to the United States of the care of such person in the nursing home will not exceed—

(A) the amount equal to 45 percent of the cost of care furnished by the Department in a general hospital under the direct jurisdiction of the Secretary (as such cost may be determined annually by the Secretary); or

(B) the amount equal to 50 percent of such cost, if such higher amount is determined to be necessary by the Secretary (upon the recommendation of the Under Secretary for Health) to provide adequate care.

(3) Nursing home care may not be furnished under this subsection at the expense of the United States for more than six months in the aggregate in connection with any one transfer except—

(A) in the case of a veteran—

(i) who is transferred to a non-Department nursing home from a hospital under the direct jurisdiction of the Secretary; and

(ii) whose hospitalization was primarily for a service-connected disability;

(B) in a case in which the nursing home care is required for a service-connected disability; or

(C) in a case in which, in the judgment of the Secretary, a longer period of nursing home care is warranted.

(4) A veteran who is furnished care by the Secretary in a hospital or domiciliary facility in Alaska or Hawaii may be furnished nursing home care at the expense of the United States under this subsection even if such hospital or domiciliary facility is not under the direct jurisdiction of the Secretary.

(b) No veteran may be transferred or admitted to any institution for nursing home care under this section, unless such institution is determined by the Secretary to meet such standards as the Secretary may prescribe. The standards prescribed and any report of inspection of institutions furnishing care to veterans under this section made by or for the Secretary shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

(c)(1)(A) In furnishing nursing home care, adult day health care, or other extended care services under this section, the Secretary may enter into agreements for furnishing such care or services with—

(i) in the case of the medicare program, a provider of services that has entered into a

provider agreement under section 1866(a) of the Social Security Act (42 U.S.C. 1395cc(a)); and

(ii) in the case of the medicaid program, a provider participating under a State plan under title XIX of such Act (42 U.S.C. 1396 et seq.).

(B) In entering into an agreement under subparagraph (A) with a provider of services described in clause (i) of that subparagraph or a provider described in clause (ii) of that subparagraph, the Secretary may use the procedures available for entering into provider agreements under section 1866(a) of the Social Security Act.

(2) In applying the provisions of section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) with respect to any contract entered into under this section to provide nursing home care of veterans, the payment of wages not less than those specified in section 6(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(b)) shall be deemed to constitute compliance with such provisions.

(d)(1) Subject to subsection (b) of this section, the Secretary may authorize for any veteran requiring nursing home care for a service-connected disability direct admission for such care at the expense of the United States to any non-Department nursing home. The Secretary may also authorize a direct admission to such a nursing home for nursing home care for any veteran who has been discharged from a hospital under the direct jurisdiction of the Secretary and who is currently receiving medical services as part of home health services from the Department.

(2) Direct admission authorized by paragraph (1) of this subsection may be authorized upon determination of need therefor—

(A) by a physician employed by the Department; or

(B) in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement,

based on an examination by such physician.

(3) The amount which may be paid for such care and the length of care available under this subsection shall be the same as authorized under subsection (a) of this section.

(e)(1) The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(2)(B) of this section shall be determined by the Secretary except that the rate of reimbursement shall be commensurately less than that provided for nursing home care.

(2) For the purposes of this section, the term ''non-Department nursing home'' means a public or private institution not under the direct jurisdiction of the Secretary which furnishes nursing home care.

(f)(1)(A) The Secretary may furnish adult day health care services to a veteran enrolled under section 1705(a) of this title who would otherwise require nursing home care.

(B) The Secretary may provide in-kind assistance (through the services of Department employees and the sharing of other Department resources) to a facility furnishing care to veterans under subparagraph (A) of this paragraph. Any such in-kind assistance shall be provided under a contract or agreement between the Secretary and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of adult day health care and only if, under such contract or agreement, the Department receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

(2) The Secretary may conduct, at facilities over which the Secretary has direct jurisdiction, programs for the furnishing of adult day health care to veterans who are eligible for such care under paragraph (1) of this subsection, except that necessary travel and incidental expenses (or transportation in lieu thereof) may be furnished under such a program only under the terms and conditions set forth in section 111 of this title. The furnishing of care under any such program shall be subject to the limitations that are applicable to the duration of adult day health care furnished under paragraph (1) of this subsection.

(Added Pub. L. 88–450, § 2(a), Aug. 19, 1964, 78 Stat. 500, § 620; amended Pub. L. 90–429, July 26, 1968, 82 Stat. 446; Pub. L. 90–612, §§ 1, 3, Oct. 21, 1968, 82 Stat. 1202; Pub. L. 91–101, Oct. 30, 1969, 83 Stat. 167; Pub. L. 93–82, title I, § 104, Aug. 2, 1973, 87 Stat. 182; Pub. L. 94–581, title I, § 106, title II, §§ 202(h), 210(a)(7), Oct. 21, 1976, 90 Stat. 2847, 2856, 2863; Pub. L. 97–295, § 4(19), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 98–160, title I, § 103(a)(1), (2), Nov. 21, 1983, 97 Stat. 995; Pub. L. 99–166, title I, § 108(a)–(c), Dec. 3, 1985, 99 Stat. 946, 947; Pub. L. 99–272, title XIX, § 19011(d)(5), Apr. 7, 1986, 100 Stat. 379; Pub. L. 100–322, title I, §§ 103(b), 111(a), May 20, 1988, 102 Stat. 493, 499; renumbered § 1720 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(ii), (3)–(5), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title I, § 101(d)(8), Oct. 9, 1996, 110 Stat. 3180; Pub. L. 105–114, title IV, § 402(c), Nov. 21, 1997, 111 Stat. 2294; Pub. L. 106–117, title I, § 101(d), Nov. 30, 1999, 113 Stat. 1549; Pub. L. 108–170, title I, § 105, Dec. 6, 2003, 117 Stat. 2045.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(1)(A)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior section 1720 was renumbered section 3520 of this title.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–170, § 105(a), designated existing provisions as par. (2) and added par. (1).

Subsec. (f)(1)(B). Pub. L. 108–170, § 105(b), inserted ''or agreement'' after ''contract'' in two places.

1999—Subsec. (f)(1)(A). Pub. L. 106–117 amended subpar. (A) generally. Prior to amendment, subpar. (A)

read as follows: ''The Secretary is authorized to furnish adult day health care as provided for in this subsection. For the purpose only of authorizing the furnishing of such care and specifying the terms and conditions under which it may be furnished to veterans needing such care—

''(i) references to 'nursing home care' in subsections (a) through (d) of this section shall be deemed to be references to 'adult day health care'; and

''(ii) a veteran who is eligible for medical services under paragraph (1), (2), or (3) of section 1710(a) of this title shall be deemed to be a veteran described in subsection (a)(1) of this section.''

1997—Subsec. (a)(1)(A)(i). Pub. L. 105–114 substituted ''care'' for ''hospital care, nursing home care, or domiciliary care''.

1996—Subsec. (f)(1)(A)(ii). Pub. L. 104–262, § 101(d)(8)(A), substituted ''paragraph (1), (2), or (3) of section 1710(a)'' for ''section 1712(a)(1)(B)''.

Subsec. (f)(3). Pub. L. 104–262, § 101(d)(8)(B), struck out par. (3) which read as follows: ''Adult day health care may not be furnished under this section after September 30, 1991.''

1992—Subsec. (a)(2)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–83, § 5(a), renumbered section 620 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing in par. (1) introductory provisions and subpar. (A) and pars. (2) to (4).

Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration'' wherever appearing in pars. (1) and (3)(A)(i).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in par. (2)(A).

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d)(2)(A). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in pars. (1) and (2).

Pub. L. 102–83, § 4(a)(5), substituted ''non-Department'' for ''non-Veterans' Administration'' in par. (2).

Subsec. (f)(1)(A). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (f)(1)(A)(ii). Pub. L. 102–83, § 5(c)(1), substituted ''1712(a)(1)(B)'' for ''612(a)(1)(B)''.

Subsec. (f)(1)(B). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''may'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–83, § 4(a)(2)(A)(ii), substituted ''Secretary'' for ''Veterans' Administration'' in second sentence.

Subsec. (f)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1988—Subsec. (e)(1). Pub. L. 100–322, § 103(b), struck out ''For the purposes of this section, the term 'nursing home care' includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe.'' at beginning and struck out ''(as defined in section 101(28) of this title)'' after ''provided for nursing home care''.

Subsec. (f)(3). Pub. L. 100–322, § 111(a), substituted ''September 30, 1991'' for ''September 30, 1988''.

1986—Subsec. (f)(1)(A)(ii). Pub. L. 99–272 substituted ''612(a)(1)(B)'' for ''612(f)(2)''.

1985—Subsec. (a). Pub. L. 99–166, § 108(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Subject to subsection (b) and except as provided in subsection (e) of this section, the Administrator may transfer—

''(1) Any veteran who has been furnished care by the Administrator in a hospital under the direct jurisdiction of the Administrator, and

''(2) Any person (A) who has been furnished care in any hospital of any of the Armed Forces, (B) who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and (C) who upon discharge therefrom will become a veteran

to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care, for care at the expense of the United States, only if the Administrator determines that—

''(i) such veteran has received maximum benefits from such care in such hospital, but will require a protracted period of nursing home care which can be furnished in such institution, and

''(ii) the cost of such nursing home care in such institution will not exceed 45 percent of the cost of care furnished by the Veterans' Administration in a general hospital under the direct and exclusive jurisdiction of the Administrator, as such cost may be determined annually by the Administrator, or not to exceed 50 percent of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care.

Nursing home care may not be furnished pursuant to this section at the expense of the United States for more than six months in the aggregate in connection with any one transfer, except (I) in the case of the veteran whose hospitalization was primarily for a service-connected disability, or (II) where in the judgment of the Administrator a longer period is warranted in the case of any other veteran. Any veteran who is furnished care by the Administrator in a hospital in Alaska or Hawaii may be furnished nursing home care under the provisions of this section even if such hospital is not under the direct jurisdiction of the Administrator.''

Subsec. (d). Pub. L. 99–166, § 108(b), designated existing first sentence as par. (1), substituted ''to any non-Veterans' Administration nursing home'' for ''to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care'', inserted ''The Administrator may also authorize a direct admission to such a nursing home for nursing home care for any veteran who has been discharged from a hospital under the direct jurisdiction of the Administrator and who is currently receiving medical services as part of home health services from the Veterans' Administration.'', substituted par. (2) for ''Such admission may be authorized upon determination of need therefor by a physician employed by the Veterans' Administration or, in areas where no such physician is available, carrying out such function under contract or fee arrangement based on an examination by such physician.'', and designated existing last sentence as par. (3).

Subsec. (e). Pub. L. 99–166, § 108(c), designated existing provisions as par. (1), substituted ''subsection (a)(2)(B)'' for ''subsection (a)(ii)'' in second sentence, and added par. (2).

1983—Pub. L. 98–160, § 103(a)(2), inserted ''; adult day health care'' in section catchline.

Subsec. (f). Pub. L. 98–160, § 103(a)(1), added subsec. (f).

1982—Subsec. (a)(ii) Pub. L. 97–295, § 4(19)(A), substituted ''percent'' for ''per centum'' wherever appearing.

Subsec. (c). Pub. L. 97–295, § 4(19)(B), inserted ''(41 U.S.C. 351(b)(1))'' after ''the Service Contract Act of 1965'' and substituted ''(29 U.S.C. 206(b))'' for '', as amended,''.

1976—Subsec. (a). Pub. L. 94–581, §§ 106(1)–(3), 202(h), inserted ''and except as provided in subsection (e)'' after ''subsection (b)'' in provisions preceding par. (1), substituted ''direct jurisdiction'' for ''direct and exclusive jurisdiction'' in par. (1), substituted ''45 per centum''

for ''40 per centum'' and ''annually'' for ''from time to time'' in cl. (ii) and inserted '', or not to exceed 50 per centum of such cost where determined necessary by the Administrator, upon recommendation of the Chief Medical Director, to provide adequate care'' at the end thereof, and substituted ''direct jurisdiction'' for ''direct and exclusive jurisdiction'' in provisions following cl. (ii).

Subsec. (b). Pub. L. 94–581, § 210(a)(7), substituted ''such standards as the Administrator may prescribe'' for ''such standards as he may prescribe''.

Subsec. (e). Pub. L. 94–581, § 106(4), added subsec. (e).

1973—Subsec. (a). Pub. L. 93–82, § 104(a), (b), designated cls. (1) and (2) as (i) and (ii), respectively, and in provisions preceding cl. (i) as so designated, substituted authority of the Administrator to transfer veterans and other persons under pars. (1) and (2), for authority of the Administrator to transfer veterans who have been furnished care by the Administrator in a hospital under the direct and exclusive jurisdiction of the Administrator, to any public or private institution not under the jurisdiction of the Administrator which furnishes nursing home care for care at the expense of the United States, and in the provisions following cl. (ii) as so designated, substituted designations (I) and (II) for designations (A) and (B).

Subsec. (b). Pub. L. 93–82, § 104(c), inserted provisions relating to the admissions of veterans to institutions for nursing home care and for the furnishing of standards and reports to Federal, State and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

Subsec. (d). Pub. L. 93–82, § 104(d), added subsec. (d).

1969—Subsec. (a). Pub. L. 91–101 inserted provision authorizing the furnishing of nursing home care for more than six months in the aggregate in connection with any one transfer in the case of a veteran whose hospitalization was primarily for a service-connected disability.

1968—Subsec. (a). Pub. L. 90–612, § 1, authorized furnishing of nursing home care to veterans who are being furnished care by the Administrator in hospitals in Alaska or Hawaii even if the hospitals involved are not under the direct and exclusive jurisdiction of the Administrator.

Subsec. (a)(2). Pub. L. 90–429 substituted ''40 per centum'' for ''one-third''.

Subsec. (c). Pub. L. 90–612, § 3, added subsec. (c).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 applicable to hospital care, nursing home care, and medical services furnished on or after July 1, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

COMPARISON STUDY BETWEEN ADULT DAY HEALTH CARE AND NURSING HOME CARE

Section 111(b), (c) of Pub. L. 100–322 directed Administrator to conduct a study of medical efficacy and cost-effectiveness of furnishing adult day health care under subsec. (f) of this section as an alternative to nursing home care and the comparative advantages and disadvantages of providing such care through facilities that are not under direct jurisdiction of Administrator and through facilities that are under direct jurisdiction of Administrator, with Administrator to submit to Committees on Veterans' Affairs of Senate and House of Representatives an interim report on the study not later than Feb. 1, 1988, a final report on such study not later than Feb. 1, 1991.

Section 103(b), (c) of Pub. L. 98–160, which provided for a study and report, not later than Feb. 1, 1988, of the medical efficacy and cost-effectiveness of furnishing adult day health care as an alternative for nursing home care and of the comparative advantages and disadvantages of providing such care in Veterans' Administration or in other facilities, was repealed by Pub. L. 100–322, title I, § 111(d), May 20, 1988, 102 Stat. 499.

§ 1720A. Treatment and rehabilitative services for persons with drug or alcohol dependency

(a) The Secretary, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, may take appropriate steps to (1) urge all Federal agencies and appropriate private and public firms, organizations, agencies, and persons to provide appropriate employment and training opportunities for veterans who have been provided treatment and rehabilitative services under this title for alcohol or drug dependence or abuse disabilities and have been determined by competent medical authority to be sufficiently rehabilitated to be employable, and (2) provide all possible assistance to the Secretary of Labor in placing such veterans in such opportunities.

(b) Upon receipt of an application for treatment and rehabilitative services under this title for an alcohol or drug dependence or abuse disability from any individual who has been discharged or released from active military, naval, or air service but who is not eligible for such treatment and services, the Secretary shall—

(1) provide referral services to assist such individual, to the maximum extent practicable, in obtaining treatment and rehabilitative services from sources outside the Department; and

(2) if pertinent, advise such individual of such individual's rights to apply to the appropriate military, naval, or air service and the Department for review of such individual's discharge or release from such service.

(c)(1) Any person serving in the active military, naval, or air service who is determined by the Secretary concerned to have an alcohol or drug dependence or abuse disability may be transferred to any facility in order for the Secretary to furnish care or treatment and rehabilitative services for such disability. Care and services provided to a member so transferred shall be provided as if such member were a veteran. Any transfer of any such member for such care and services shall be made pursuant to such terms as may be agreed upon by the Secretary concerned and the Secretary, subject to the provisions of sections 1535 and 1536 of title 31.

(2) No person serving in the active military, naval, or air service may be transferred pursuant to an agreement made under paragraph (1) of this subsection unless such person requests such transfer in writing for a specified period of time. No such person transferred pursuant to such a request may be furnished such care and services by the Secretary beyond the period of time specified in such request unless such person requests in writing an extension for a further specified period of time and such request is approved by the Secretary.

(d)(1) The Secretary shall ensure that each medical center of the Department develops and

carries out a plan to provide treatment for substance use disorders, either through referral or direct provision of services, to veterans who require such treatment.

(2) Each plan under paragraph (1) shall make available clinically proven substance abuse treatment methods, including opioid substitution therapy, to veterans with respect to whom a qualified medical professional has determined such treatment methods to be appropriate.

(Added Pub. L. 96–22, title I, § 104(a), June 13, 1979, 93 Stat. 50, § 620A; amended Pub. L. 96–128, title V, § 501(c), Nov. 28, 1979, 93 Stat. 987; Pub. L. 97–251, § 6, Sept. 8, 1982, 96 Stat. 716; Pub. L. 97–258, § 3(k)(1), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99–108, § 3, Sept. 30, 1985, 99 Stat. 481; Pub. L. 99–166, title I, § 101(a), (b)(1), Dec. 3, 1985, 99 Stat. 942, 943; Pub. L. 100–687, div. B, title XV, § 1509, Nov. 18, 1988, 102 Stat. 4137; Pub. L. 100–689, title V, § 502(a)(1), (b), Nov. 18, 1988, 102 Stat. 4179; Pub. L. 102–54, § 14(b)(13), June 13, 1991, 105 Stat. 284; renumbered § 1720A and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title III, § 303, Aug. 14, 1991, 105 Stat. 416; Pub. L. 103–452, title I, § 103(b), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104–110, title I, § 101(b), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105–114, title II, § 202(b), Nov. 21, 1997, 111 Stat. 2287; Pub. L. 106–117, title I, § 114, Nov. 30, 1999, 113 Stat. 1558; Pub. L. 106–419, title IV, § 404(a)(4), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 107–95, § 8(c), Dec. 21, 2001, 115 Stat. 920.)

AMENDMENTS

2001—Subsec. (d). Pub. L. 107–95 added subsec. (d).

2000—Subsec. (c)(1). Pub. L. 106–419 substituted "for such disability. Care and services provided to a member so transferred" for "for such disability unless such transfer is during the last thirty days of such member's enlistment period or tour of duty, in which case such care and services provided to such member".

1999—Subsec. (c)(1). Pub. L. 106–117, § 114(a), substituted "may be transferred" for "may not be transferred" in first sentence.

Pub. L. 106–117, § 114(a)(2), which directed the amendment of first sentence of par. (1) by striking out "unless such transfer is during the last thirty days of such member's enlistment or tour of duty", could not be executed because that phrase did not appear.

Subsec. (c)(2). Pub. L. 106–117, § 114(b), struck out "during the last thirty days of such person's enlistment period or tour of duty" before period at end of first sentence.

1997—Pub. L. 105–114, § 202(b)(2), substituted "Treatment and rehabilitative services for persons with drug and alcohol dependency" for "Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities" in section catchline.

Subsecs. (a) to (d). Pub. L. 105–114, § 202(b)(1), redesignated subsecs. (b) to (d) as (a) to (c), respectively, and struck out former subsec. (a) which read as follows:

"(a)(1) The Secretary, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from alcohol or drug dependence or abuse disabilities.

"(2) Before furnishing such care and services to any veteran through a contract facility as authorized by paragraph (1) of this subsection, the Secretary shall approve (in accordance with criteria which the Secretary shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services."

Subsecs. (e) to (g). Pub. L. 105–114, § 202(b)(1)(B), struck out subsecs. (e) to (g) which read as follows:

"(e) The Secretary may not furnish care and treatment and rehabilitative services under subsection (a) of this section after December 31, 1997.

"(f)(1) During the period beginning on December 1, 1988, and ending on October 1, 1997, the Secretary shall conduct an ongoing clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under this section.

"(2) The evaluation shall include an assessment of the following:

"(A) The long-term results of treatment referred to in paragraph (1) of this subsection on drug and alcohol use by veterans who may have received such treatment.

"(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

"(C) The employment status and income of such veterans.

"(D) The extent of any criminal activity of such veterans.

"(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

"(3) To the extent feasible, the Secretary shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

"(4) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the following reports on the evaluation under this subsection:

"(A) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Secretary has drawn on the basis of that information.

"(B) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Secretary based on that information.

"(g) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts."

1996—Subsec. (e). Pub. L. 104–110 substituted "December 31, 1997" for "December 31, 1995".

1994—Subsec. (e). Pub. L. 103–452 substituted "December 31, 1995" for "December 31, 1994".

1991—Pub. L. 102–83, § 5(a), renumbered section 620A of this title as this section.

Subsecs. (a), (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in pars. (1) and (2).

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (e). Pub. L. 102–86 amended subsec. (e) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting "December 31, 1994" for "September 30, 1991".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Pub. L. 102–54 struck out "during the period" before "beginning" in par. (1).

Subsec. (g). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Subsec. (e). Pub. L. 100–689, § 502(a)(1), substituted ''1991'' for ''1988''.

Subsec. (f). Pub. L. 100–689, § 502(b), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

''(1) The Administrator shall monitor the performance of each contract facility furnishing care and services under the program carried out under subsection (a) of this section.

''(2) The Administrator shall use the results of such monitoring to determine—

''(A) with respect to the program, the medical advantages and cost-effectiveness that result from furnishing such care and services; and

''(B) with respect to such contract facilities generally, the level of success under the program, considering—

''(i) the rate of successful rehabilitation for veterans furnished care and services under the program;

''(ii) the rate of readmission to contract facilities under the program or to Veterans' Administration health-care facilities by such veterans for care or services for disabilities referred to in subsection (a) of this section;

''(iii) whether the care and services furnished under the program obviated the need of such veterans for hospitalization for such disabilities;

''(iv) the average duration of the care and services furnished such veterans under the program;

''(v) the ability of the program to aid in the transition of such veterans back into their communities; and

''(vi) any other factor that the Administrator considers appropriate.

''(3) The Administrator shall maintain records of—

''(A) the total cost for the care and services furnished by each contract facility under the program;

''(B) the average cost per veteran for the care and services furnished under the program; and

''(C) the appropriateness of such costs, by comparison to—

''(i) the average charges for the same types of care and services furnished generally by other comparable halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities; and

''(ii) the historical costs for such care and services for the period of time that the program carried out under subsection (a) of this section was a pilot program, taking into account economic inflation.

''(4) Not later than February 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under the program carried out under this section during fiscal years 1984 through 1987. The report shall include—

''(A) a description of the care and services furnished;

''(B) the matters referred to in paragraphs (1), (2), and (3) of this subsection; and

''(C) the Administrator's findings, assessment, and recommendations regarding the program under this section.''

Subsec. (f)(1). Pub. L. 100–687 substituted ''during the period beginning on December 1, 1988, and ending on October 1, 1997'' for ''before October 1, 1997'' in par. (1) as amended by Pub. L. 100–689 above.

1985—Pub. L. 99–166, § 101(b)(1), struck out ''; pilot program'' after ''disabilities'' in section catchline.

Subsec. (a)(1). Pub. L. 99–166, § 101(a)(1), struck out ''may conduct a pilot program under which the Administrator'' before ''may contract'' in first sentence, and struck out second sentence relating to the planning, designing, and conducting of a pilot program by the Chief Medical Director so as to demonstrate any medical advantages and cost effectiveness that might result from furnishing care and services to disabled veterans in contract facilities as authorized by this section, rather than in facilities over which the Administrator had jurisdiction.

Subsec. (e). Pub. L. 99–166, § 101(a)(2), substituted ''September 30, 1988'' for ''October 31, 1985''.

Pub. L. 99–108 substituted ''October 31, 1985'' for ''the last day of the fifth fiscal year following the fiscal year in which the pilot program authorized by such subsection is initiated''.

Subsec. (f). Pub. L. 99–166, § 101(a)(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''Not later than March 31, 1984, the Administrator shall report to the Committee on Veterans' Affairs of the Senate and House of Representatives on the findings and recommendations of the Administrator pertaining to the operation through September 30, 1983, of the pilot program authorized by this section.''

1982—Subsec. (d)(1). Pub. L. 97–258 substituted ''sections 1535 and 1536 of title 31'' for ''the Act of March 4, 1915 (31 U.S.C 686)'' after ''provisions of''.

Subsec. (f). Pub. L. 97–251 substituted ''March 31, 1984'' and ''September 30, 1983'' for ''March 31, 1983'' and ''September 30, 1982'', respectively.

1979—Subsec. (a)(1). Pub. L. 96–128, § 501(c)(1), substituted ''treatment facilities for'' for ''treatment facilities of''.

Subsec. (d)(2). Pub. L. 96–128, § 501(c)(2), substituted ''such request unless'' for ''such request, unless''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 107 of Pub. L. 96–22, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

REPORT ON CONSOLIDATION OF CERTAIN PROGRAMS

Section 202(a) of Pub. L. 104–110 provided that: ''The Secretary of Veterans Affairs shall submit to Congress, not later than March 1, 1997, a report on the advantages and disadvantages of consolidating into one program the following three programs:

''(1) The alcohol and drug abuse contract care program under section 1720A of title 38, United States Code.

''(2) The program to provide community-based residential care to homeless chronically mentally ill veterans under section 115 of the Veterans' Benefits and Services Act of 1988 [Pub. L. 100–322] (38 U.S.C. 1712 note).

''(3) The demonstration program under section 7 of Public Law 102–54 (38 U.S.C. 1718 note).''

LOANS TO ORGANIZATIONS PROVIDING TRANSITIONAL HOUSING FOR SUBSTANCE ABUSERS

Section 8 of Pub. L. 102–54 provided that:

''(a) LOAN PROGRAM.—The Secretary of Veterans Affairs may make loans in accordance with this section to assist in the provision of transitional housing exclusively to veterans who are in (or who recently have been in) a program for the treatment of substance abuse.

''(b) LOAN RECIPIENTS.—A loan under this section may only be made to a nonprofit organization under selection criteria promulgated by the Secretary and only

to assist that organization in leasing housing units for use as a group residence for the purposes described in subsection (a). The amount of such a loan that is used with respect to any single residential unit may not exceed $4,500. In making loans under this subsection, the Secretary shall, except to the extent that the Secretary determines that it is infeasible to do so, ensure that—

''(1) each loan is repaid within two years after the date on which the loan is made;

''(2) each loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay an installment by the date specified in the loan agreement involved; and

''(3) each loan is made only to a nonprofit private entity which agrees that, in the operation of each residence established with the assistance of the loan—

''(A) the use of alcohol or any illegal drug in the residence will be prohibited;

''(B) any resident who violates the prohibition in subclause (A) of this clause will be expelled from the residence;

''(C) the costs of maintaining the residence, including fees for rent and utilities, will be paid by the residents;

''(D) the residents will, through a majority vote of the residents, otherwise establish policies governing the conditions of residence, including the manner in which applications for residence are approved; and

''(E) the residence will be operated solely as a residence for not less than six veterans.

''(c) FUNDING.—Loans under this section shall be made from the special account of the General Post Fund of the Department of Veterans Affairs established for purposes of this section. The amount of such loans outstanding at any time may not exceed $100,000. Amounts received as payment of principal and interest on such loans shall be deposited in that account. The operation of the loan program under this section shall be separately accounted for, and shall be separately stated in the documents accompanying the President's budget for each fiscal year.

''(d) TERMS AND CONDITIONS.—Loans under this section shall be made on such terms and conditions, including interest, as the Secretary prescribes.

''(e) REPORT.—After the end of the 15-month period beginning on the date the first loan is extended under this section, the Secretary shall issue a report on the Department's experience under the section. The report shall include the following information:

''(1) The default rate on loans extended under this section.

''(2) The manner in which loan payments are collected.

''(3) The number of facilities at which loans have been extended.

''(4) The adequacy of the amount of funds in the special account referred to in subsection (c).''

EVALUATION OF VETERANS' ADMINISTRATION INPATIENT AND OUTPATIENT DRUG AND ALCOHOL TREATMENT PROGRAMS

Pub. L. 100–690, title II, § 2501, Nov. 18, 1988, 102 Stat. 4232, directed Administrator of Veterans' Affairs to conduct an evaluation of inpatient and outpatient drug and alcohol treatment programs operated by the Veterans' Administration, such evaluation to include a determination of medical advantages and cost-effectiveness of such programs, taking into consideration rates of readmission and the rate of successful rehabilitation, and authorized appropriations for this purpose for fiscal years 1989, 1990, and 1991.

RATIFICATION FOR LAPSED PERIOD

Section 502(a)(2) of Pub. L. 100–689 ratified actions by the Administrator of Veterans' Affairs in providing, during the period beginning Oct. 1, 1988, and ending Nov. 18, 1988, for care and treatment and rehabilitative services under this section.

§ 1720B. Respite care

(a) The Secretary may furnish respite care services to a veteran who is enrolled to receive care under section 1710 of this title.

(b) For the purpose of this section, the term ''respite care services'' means care and services which—

(1) are of limited duration;

(2) are furnished on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and

(3) are furnished for the purpose of helping the veteran to continue residing primarily at home.

(c) In furnishing respite care services, the Secretary may enter into contract arrangements.

(Added Pub. L. 99–576, title II, § 201(a)(1), Oct. 28, 1986, 100 Stat. 3254, § 620B; amended Pub. L. 101–237, title II, § 201(a), Dec. 18, 1989, 103 Stat. 2066; renumbered § 1720B and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–585, title V, § 502, Nov. 4, 1992, 106 Stat. 4955; Pub. L. 106–117, title I, § 101(e), Nov. 30, 1999, 113 Stat. 1549.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–117, § 101(e)(1), substituted ''enrolled'' for ''eligible''.

Subsec. (b). Pub. L. 106–117, § 101(e)(2), in introductory provisions, substituted ''the term 'respite care services' means care and services'' for ''the term 'respite care' means hospital or nursing home care'', in par. (1) substituted ''are'' for ''is'', in par. (2) substituted ''are'' for ''is'' and struck out ''in a Department facility'' after ''furnished'', and in par. (3) substituted ''are'' for ''is''.

Subsec. (c). Pub. L. 106–117, § 101(e)(3), added subsec. (c).

1992—Subsec. (c). Pub. L. 102–585 struck out subsec. (c) which read as follows: ''The authority provided by this section terminates on September 30, 1992.''

1991—Pub. L. 102–83, § 5(a), renumbered section 620B of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1710'' for ''610''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(2). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1989—Subsec. (c). Pub. L. 101–237 substituted ''September 30, 1992'' for ''September 30, 1989''.

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING TRANSITION PERIODS

Section 604 of Pub. L. 101–237 ratified actions of the Secretary of Veterans Affairs in carrying out this section, section 115 of Pub. L. 100–322 [38 U.S.C. 1712 note], section 618 of Pub. L. 100–440 [5 U.S.C. 6302 note], or section 1829 [now 3729] of this title, by contract or otherwise, during the period beginning Dec. 1, 1989, and ending Dec. 18, 1989.

Pub. L. 101–110, § 3(b), Oct. 6, 1989, 103 Stat. 682, ratified actions of the Secretary of Veterans Affairs in carrying out this section, section 115 of Pub. L. 100–322 [38 U.S.C. 1712 note], section 618 of Pub. L. 100–440 [5 U.S.C. 6302 note], or section 1829 [now 3729] of this title, by contract or otherwise, during the period beginning Oct. 1, 1989, and ending Oct. 6, 1989.

INTERIM EXTENSION OF RESPITE CARE PROGRAM

Pub. L. 101–110, § 1(a), Oct. 6, 1989, 103 Stat. 682, provided that: ''Notwithstanding the provisions of subsection (c) of section 620B [now 1720B] of title 38, United

States Code, the authority provided by such section shall terminate on November 30, 1989.''

REPORT

Section 201(b) of Pub. L. 99–576 provided that if the Administrator of Veterans' Affairs furnished respite care under this section, the Administrator was to conduct an evaluation of the health efficacy and cost-effectiveness of furnishing such care and submit to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than Feb. 1, 1989, a report containing the results of such evaluation and appropriate recommendations.

§ 1720C. Noninstitutional alternatives to nursing home care

(a) The Secretary may furnish medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care. The Secretary shall give priority for participation in such program to veterans who—

(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

(2) have a service-connected disability rated at 50 percent or more.

(b)(1) Under the program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

(2) For the purposes of paragraph (1), the term ''case management services'' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 1710 of this title during that fiscal year.

(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available.

(Added Pub. L. 101–366, title II, § 201(a)(1), Aug. 15, 1990, 104 Stat. 437, § 620C; renumbered § 1720C and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–452, title I, § 103(c), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104–110, title I, § 101(c), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105–114, title II, § 206(a)–(b)(2), Nov. 21, 1997, 111 Stat. 2289.)

AMENDMENTS

1997—Pub. L. 105–114, § 206(b)(2), struck out ''; pilot program'' after ''home care'' in section catchline.

Subsec. (a). Pub. L. 105–114, § 206(a), substituted ''The Secretary may furnish'' for ''During the period through December 31, 1997, the Secretary may conduct a pilot program for the furnishing of''.

Subsec. (b)(1). Pub. L. 105–114, § 206(b)(1), substituted ''Under the program'' for ''Under the pilot program''.

Subsec. (d). Pub. L. 105–114, § 206(b)(1), substituted ''under the program'' for ''under the pilot program''.

1996—Subsec. (a). Pub. L. 104–110 substituted ''December 31, 1997'' for ''September 30, 1995'' in introductory provisions.

1994—Subsec. (a). Pub. L. 103–452, in introductory provisions, substituted ''During the period through September 30, 1995,'' for ''During the four-year period beginning on October 1, 1990,'' and ''care. The Secretary shall give priority for participation in such program to veterans who'' for ''care and who''.

1991—Pub. L. 102–83, § 5(a), renumbered section 620C of this title as this section.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1710'' for ''610''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 103(c)(1) of Pub. L. 103–452 provided that the amendment made by that section is effective Oct. 1, 1994.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

REPORT TO CONGRESSIONAL COMMITTEES

Section 201(b) of Pub. L. 101–366, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–452, title I, § 103(g), Nov. 2, 1994, 108 Stat. 4787, provided that: ''Not later than February 1, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 1720C [formerly 620C] of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the

pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.''

§ 1720D. Counseling and treatment for sexual trauma

(a)(1) The Secretary shall operate a program under which the Secretary provides counseling and appropriate care and services to veterans who the Secretary determines require such counseling and care and services to overcome psychological trauma, which in the judgment of a mental health professional employed by the Department, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty or active duty for training.

(2) In furnishing counseling to a veteran under this subsection, the Secretary may provide such counseling pursuant to a contract with a qualified mental health professional if (A) in the judgment of a mental health professional employed by the Department, the receipt of counseling by that veteran in facilities of the Department would be clinically inadvisable, or (B) Department facilities are not capable of furnishing such counseling to that veteran economically because of geographical inaccessibility.

(b)(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.

(2) In establishing a program to provide counseling under subsection (a), the Secretary shall—

(A) provide for appropriate training of mental health professionals and such other health care personnel as the Secretary determines necessary to carry out the program effectively;

(B) seek to ensure that such counseling is furnished in a setting that is therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling; and

(C) provide referral services to assist veterans who are not eligible for services under this chapter to obtain those from sources outside the Department.

(c) The Secretary shall provide information on the counseling and treatment available to veterans under this section. Efforts by the Secretary to provide such information—

(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number);

(2) shall ensure that information about the counseling and treatment available to veterans under this section—

(A) is revised and updated as appropriate;

(B) is made available and visibly posted at appropriate facilities of the Department; and

(C) is made available through appropriate public information services; and

(3) shall include coordination with the Secretary of Defense seeking to ensure that individuals who are being separated from active military, naval, or air service are provided appropriate information about programs, requirements, and procedures for applying for counseling and treatment under this section.

(d) In this section, the term ''sexual harassment'' means repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.

(Added Pub. L. 102–585, title I, § 102(a)(1), Nov. 4, 1992, 106 Stat. 4945; amended Pub. L. 103–452, title I, § 101(a)–(d), (f)(1), (2)(A), (g)(1), Nov. 2, 1994, 108 Stat. 4783, 4784; Pub. L. 105–368, title IX, § 902, Nov. 11, 1998, 112 Stat. 3360; Pub. L. 106–117, title I, § 115(a)–(c), Nov. 30, 1999, 113 Stat. 1558; Pub. L. 108–422, title III, § 301, Nov. 30, 2004, 118 Stat. 2382.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–422, § 301(a)(1), (b), substituted ''The'' for ''During the period through December 31, 2004, the'' and inserted ''or active duty for training'' before period at end.

Subsec. (a)(2). Pub. L. 108–422, § 301(a)(2), struck out '', during the period through December 31, 2004,'' after ''the Secretary may''.

1999—Subsec. (a)(1). Pub. L. 106–117, § 115(a)(1), (b)(1), substituted ''December 31, 2004'' for ''December 31, 2001'' and ''shall operate a program under which the Secretary provides counseling and appropriate care and services to veterans who the Secretary determines require such counseling and care and services'' for ''may provide counseling to a veteran who the Secretary determines requires such counseling''.

Subsec. (a)(2), (3). Pub. L. 106–117, § 115(a)(2), (b)(2), redesignated par. (3) as (2), substituted ''December 31, 2004'' for ''December 31, 2001'', and struck out former par. (2) which read as follows: ''During the period referred to in paragraph (1), the Secretary may provide appropriate care and services to a veteran for an injury, illness, or other psychological condition that the Secretary determines to be the result of a physical assault, battery, or harassment referred to in that paragraph.''

Subsec. (c). Pub. L. 106–117, § 115(c)(1), inserted ''and treatment'' after ''counseling'' in first sentence.

Subsec. (c)(2), (3). Pub. L. 106–117, § 115(c), added par. (2), redesignated former par. (2) as (3), and inserted ''and treatment'' after ''counseling''.

1998—Subsec. (a)(1), (3). Pub. L. 105–368 substituted ''December 31, 2001'' for ''December 31, 1998''.

1994—Pub. L. 103–452, § 101(f)(2)(A), substituted ''and treatment'' for ''to women veterans'' in section catchline.

Subsec. (a)(1). Pub. L. 103–452, § 101(b)(1), (f)(1)(A), substituted ''December 31, 1998,'' for ''December 31, 1995,'' and struck out ''woman'' after ''counseling to a''.

Subsec. (a)(2). Pub. L. 103–452, § 101(a), added par. (2) and struck out former par. (2) which read as follows: ''To be eligible to receive counseling under this subsection, a veteran must seek such counseling from the Secretary within two years after the date of the veteran's discharge or release from active military, naval, or air service.''

Subsec. (a)(3). Pub. L. 103–452, § 101(b)(2), substituted ''December 31, 1998,'' for ''December 31, 1994,''.

Subsec. (b). Pub. L. 103–452, § 101(c), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''In providing services to a veteran under subsection (a), the period for which counseling is provided may not exceed one year from the date of the commencement of the furnishing of such counseling to the veteran. However, the Secretary may authorize a longer period in any case if, in the judgment of the Secretary, a longer period of counseling is required.''

Subsec. (b)(1). Pub. L. 103–452, § 101(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The Secretary shall give priority to the establishment and operation of the program to provide counseling under subsection (a). In the case of a veteran eligible for such counseling who requires other care or services under this chapter for trauma described in subsection (a)(1), the Secretary shall ensure that the veteran is furnished counseling under this section in a way that is coordinated with the furnishing of such other care and services under this chapter.''

Subsec. (b)(2)(C). Pub. L. 103–452, § 101(f)(1)(B), struck out ''women'' after ''assist''.

Subsec. (c). Pub. L. 103–452, § 101(f)(1)(B), struck out ''women'' after ''available to'' in introductory provisions.

Pub. L. 103–452, § 101(c)(2), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 103–452, § 101(g)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''may include establishment of an information system involving the use of a toll-free telephone number (commonly referred to as an 800 number), and''.

Subsec. (c)(2). Pub. L. 103–452, § 101(f)(1)(C), substituted ''individuals'' for ''women''.

Subsecs. (d), (e). Pub. L. 103–452, § 101(c)(2), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

INFORMATION ON TELEPHONE COUNSELING AVAILABILITY; PERSONNEL TRAINING; CLIENT CONFIDENTIALITY; PUBLICITY; REPORT

Section 101(g)(2) to (5) of Pub. L. 103–452 provided that:

''(2) In providing information on counseling available to veterans as required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)), the Secretary of Veterans Affairs shall ensure that the Department of Veterans Affairs personnel who provide assistance under such section are trained in the provision to persons who have experienced sexual trauma of information about the care and services relating to sexual trauma that are available to veterans in the communities in which such veterans reside, including care and services available under programs of the Department (including the care and services available under section 1720D of such title) and from non-Department agencies or organizations.

''(3) The telephone assistance service shall be operated in a manner that protects the confidentiality of persons who place calls to the system.

''(4) The Secretary shall ensure that information about the availability of the telephone assistance service is visibly posted in Department medical facilities and is advertised through public service announcements, pamphlets, and other means.

''(5) Not later than 18 months after the date of the enactment of this Act [Nov. 2, 1994], the Secretary shall submit to Congress a report on the operation of the telephone assistance service required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)). The report shall set forth the following:

''(A) The number of persons who sought information during the period covered by the report through a toll-free telephone number regarding services available to veterans relating to sexual trauma, with a separate display of the number of such persons arrayed by State (as such term is defined in section 101(20) of title 38, United States Code).

''(B) A description of the training provided to the personnel who provide such assistance.

''(C) The recommendations and plans of the Secretary for the improvement of the service.''

TRANSITION PERIOD FOR ELIGIBILITY FOR COUNSELING

Section 102(b) of Pub. L. 102–585, as amended by Pub. L. 103–210, § 2(b), Dec. 20, 1993, 107 Stat. 2497, provided that in the case of a veteran who was discharged or released from active military, naval, or air service before Dec. 31, 1992, the two-year period specified in 38 U.S.C. 1720D(a)(2) was to be treated as ending on Dec. 31, 1994, prior to repeal by Pub. L. 103–452, title I, § 101(h), Nov. 2, 1994, 108 Stat. 4785.

COMMENCEMENT OF PROVISION OF INFORMATION ON SERVICES

Section 104 of Pub. L. 102–585 directed Secretary of Veterans Affairs, not later than 90 days after Nov. 4, 1992, to commence the provision of information on the counseling relating to sexual trauma that is available to women veterans under 38 U.S.C. 1720D.

REPORT ON IMPLEMENTATION OF SEXUAL TRAUMA COUNSELING PROGRAM

Section 105 of Pub. L. 102–585 directed Secretary of Veterans Affairs, not later than Mar. 31, 1994, to submit to Congress a comprehensive report on the Secretary's actions under 38 U.S.C. 1720D.

§ 1720E. Nasopharyngeal radium irradiation

(a) The Secretary may provide any veteran a medical examination, and hospital care, medical services, and nursing home care, which the Secretary determines is needed for the treatment of any cancer of the head or neck which the Secretary finds may be associated with the veteran's receipt of nasopharyngeal radium irradiation treatments in active military, naval, or air service.

(b) The Secretary shall provide care and services to a veteran under subsection (a) only on the basis of evidence in the service records of the veteran which document nasopharyngeal radium irradiation treatment in service, except that, notwithstanding the absence of such documentation, the Secretary may provide such care to a veteran who—

(1) served as an aviator in the active military, naval, or air service before the end of the Korean conflict; or

(2) underwent submarine training in active naval service before January 1, 1965.

(Added Pub. L. 105–368, title IX, § 901(a), Nov. 11, 1998, 112 Stat. 3360.)

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

AMENDMENTS

1976—Pub. L. 94–581, title II, § 202(i), Oct. 21, 1976, 90 Stat. 2856, inserted ''AND NURSING HOME'' in subchapter heading.

§ 1721. Power to make rules and regulations

Rules and regulations prescribed under section 501(a) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Department facilities. The Secretary may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 8111A of this title).

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, § 621; Pub. L. 94–581, title II, §§ 202(j), 210(a)(8), Oct. 21,

1976, 90 Stat. 2856, 2863; Pub. L. 100–322, title I, § 133, May 20, 1988, 102 Stat. 507; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1721 and amended Pub. L. 102–83, §§ 2(c)(1), 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 402, 404–406.)

PRIOR PROVISIONS

Prior section 1721 was renumbered section 3521 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 621 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 2(c)(1), substituted ''501(a)'' for ''210(c)(1)''.

Pub. L. 102–40 substituted ''8111A'' for ''5011A''.

1988—Pub. L. 100–322 amended section generally. Prior to amendment, section read as follows: ''The Administrator shall prescribe—

''(1) such rules and procedure governing the furnishing of hospital, nursing home, and domiciliary care as the Administrator may deem proper and necessary;

''(2) limitations in connection with the furnishing of hospital, nursing home, and domiciliary care; and

''(3) such rules and regulations as the Administrator deems necessary in order to promote good conduct on the part of persons who are receiving hospital, nursing home, or domiciliary care in Veterans' Administration facilities.''

1976—Cl. (1). Pub. L. 94–581, §§ 202(j), 210(a)(8), substituted ''hospital, nursing home, and domiciliary care as the Administrator may deem'' for ''hospital and domiciliary care as he may deem''.

Cl. (2). Pub. L. 94–581, § 202(j), substituted ''hospital, nursing home, and domiciliary care'' for ''hospital and domiciliary care''.

Cl. (3). Pub. L. 94–581, §§ 202(j), 210(a)(8), substituted ''as the Administrator deems'' for ''as he deems'' and ''hospital, nursing home, or domiciliary care'' for ''hospital or domiciliary care''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1722. Determination of inability to defray necessary expenses; income thresholds

(a) For the purposes of section 1710(a)(2)(G) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

(1) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) the veteran is in receipt of pension under section 1521 of this title; or

(3) the veteran's attributable income is not greater than the amount set forth in subsection (b).

(b)(1) For purposes of subsection (a)(3), the income threshold for the calendar year beginning on January 1, 1990, is—

(A) $17,240 in the case of a veteran with no dependents; and

(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.

(c) Effective on January 1 of each year, the amounts in effect under subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 5312(a) of this title during the preceding calendar year.

(d)(1) Notwithstanding the attributable income of a veteran, the Secretary may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

(2) A determination described in this paragraph is a determination that for purposes of subsection (a)(3) of this section a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.

(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 1522 of this title.

(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Secretary may deem the veteran to have an attributable income during the previous year not greater than the amount determined under subsection (b) of this section.

(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

(A) the veteran has an attributable income greater than the amount determined under subsection (b) of this section; and

(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the amount determined under subsection (b).

(f) For purposes of this section:

(1) The term ''attributable income'' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 1521 of this title would be reduced if such veteran were eligible for pension under that section.

(2) The term ''corpus of the estate of the veteran'' includes the corpus of the estates of the veteran's spouse and dependent children, if any.

(3) The term ''previous year'' means the calendar year preceding the year in which the veteran applies for care or services under section 1710(a) of this title.

(g) For the purposes of section 1724(c) of this title, the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Secretary,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144, § 622; Pub. L. 89–612, § 1, Sept. 30, 1966, 80 Stat. 859; Pub. L. 91–500, § 1, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 94–581, title II, §§ 202(k), 210(a)(9), Oct. 21, 1976, 90 Stat. 2856, 2863; Pub. L. 96–330, title IV, § 401(a), Aug. 26, 1980, 94 Stat. 1051; Pub. L. 99–272, title XIX, § 19011(c)(1), Apr. 7, 1986, 100 Stat. 376; Pub. L. 100–322, title I, § 102(b), May 20, 1988, 102 Stat. 493; Pub. L. 101–508, title VIII, § 8013(c), Nov. 5, 1990, 104 Stat. 1388–346; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1722 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 104–262, title I, § 101(d)(9), Oct. 9, 1996, 110 Stat. 3180.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1) and (g)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior section 1722, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1196, related to change of program by eligible person, prior to repeal by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090. See section 3691 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–262, § 101(d)(9)(A), substituted "section 1710(a)(2)(G)" for "section 1710(a)(1)(I)" in introductory provisions.

Subsec. (f)(3). Pub. L. 104–262, § 101(d)(9)(B), struck out "or 1712(f)" before "of this title".

1991—Pub. L. 102–83, § 5(a), renumbered section 622 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "1710(a)(1)(I)" for "610(a)(1)(I)" in introductory provisions and "1521" for "521" in par. (2).

Subsec. (c). Pub. L. 102–40 substituted "5312(a)" for "3112(a)".

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (d)(3). Pub. L. 102–83, § 5(c)(1), substituted "1522" for "522".

Subsec. (e)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted "1521" for "521" in par. (1) and "1710(a) or 1712(f)" for "610(a) or 612(f)" in par. (3).

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted "1724(c)" for "624(c)" in introductory provisions.

Pub. L. 102–83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration" in par. (3).

1990—Subsec. (a). Pub. L. 101–508, § 8013(c)(1), designated par. (1) as entire subsec. (a), redesignated cls. (A) to (C) as pars. (1) to (3), respectively, substituted "amount set forth in subsection (b)" for "Category A threshold" in par. (3), and struck out former par. (2) which read as follows: "For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold."

Subsec. (b). Pub. L. 101–508, § 8013(c)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "For the purposes of this section:

"(1) The Category A threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $15,000 in the case of a veteran with no dependents; and

"(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

"(2) The Category B threshold—

"(A) for the calendar year beginning on January 1, 1986, is—

"(i) $20,000 in the case of a veteran with no dependents; and

"(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

"(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection."

Subsec. (c). Pub. L. 101–508, § 8013(c)(3), struck out "paragraphs (1) and (2) of" before "subsection (b) of this section".

Subsec. (d)(2). Pub. L. 101–508, § 8013(c)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "A determination described in this paragraph is a determination—

"(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

"(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold."

Subsec. (e)(1). Pub. L. 101–508, § 8013(c)(5)(A), substituted "the amount determined under subsection (b) of this section" for "the Category A threshold or the Category B threshold, as appropriate".

Subsec. (e)(2). Pub. L. 101–508, § 8013(c)(5)(B), added par. (2) and struck out former par. (2) which read as follows:

"(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

"(i) the veteran has an attributable income greater than the Category A threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

"(B) A veteran is described in this paragraph for the purposes of subsection (a)(2) of this section if—

"(i) the veteran has an attributable income greater than the Category B threshold; and

"(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold."

1988—Subsec. (g). Pub. L. 100–322 substituted "section" for "sections 610(b)(2) and".

1986—Pub. L. 99–272 amended section generally, revising and restating existing provisions as subsec. (g) and adding subsecs. (a) to (f).

1980—Pub. L. 96–330 substituted provisions relating to the facts that will be accepted as sufficient evidence of an individual's inability to defray necessary expenses for provisions relating to the use of statements under oath to establish the inability to defray necessary expenses.

1976—Subsec. (a). Pub. L. 94–581, § 202(k), substituted "610(a)(1)(B)" for "610(a)(1)" and "632(a)(2)" for "632(b)".

Subsec. (b). Pub. L. 94–581, § 210(a)(9), substituted "such veteran's inability" for "his inability".

1970—Pub. L. 91–500 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89–612 inserted reference to section 632(b) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 to remain in effect through the period covered by Pub. L. 102–145, see section 111 of Pub. L. 102–145, set out as a note under section 1710 of this title.

Amendment by Pub. L. 101–508 to remain in effect through the period covered by Pub. L. 102–109, see section 111 of Pub. L. 102–109, set out as a note under section 1710 of this title.

Amendment by Pub. L. 101–508 applicable with respect to hospital care and medical services received after Nov. 5, 1990, see section 8013(d) of Pub. L. 101–508, as amended, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Provisions of this section as in effect on the day before Apr. 7, 1986, applicable with respect to hospital and nursing home care furnished on or after July 1, 1986, to veterans furnished such care or services on June 30, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on June 30, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

INITIAL INCREASE UNDER SUBSECTION (c)

Section 19011(c)(3) of Pub. L. 99–272 provided that the first increase under subsection (c) of this section, as added by section 19011(c)(1) of Pub. L. 99–272, was to take effect on Jan. 1, 1987.''

§ 1722A. Copayment for medications

(a)(1) Subject to paragraph (2), the Secretary shall require a veteran to pay the United States $2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

(2) The Secretary may not require a veteran to pay an amount in excess of the cost to the Secretary for medication described in paragraph (1).

(3) Paragraph (1) does not apply—

(A) to a veteran with a service-connected disability rated 50 percent or more;

(B) to a veteran who is a former prisoner of war; or

(C) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.

(b) The Secretary, pursuant to regulations which the Secretary shall prescribe, may—

(1) increase the copayment amount in effect under subsection (a); and

(2) establish a maximum monthly and a maximum annual pharmaceutical copayment amount under subsection (a) for veterans who have multiple outpatient prescriptions.

(c) Amounts collected under this section shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund.

(Added Pub. L. 101–508, title VIII, § 8012(a)(1), Nov. 5, 1990, 104 Stat. 1388–345, § 622A; renumbered § 1722A, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 102–139, title V, § 518(a), Oct. 28, 1991, 105 Stat. 779; Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 102–568, title VI, §§ 605(a), 606(a), Oct. 29, 1992, 106 Stat. 4343; Pub. L. 103–66, title XII, § 12002(b), Aug. 10, 1993, 107 Stat. 414; Pub. L. 103–446, title XII, § 1201(e)(7), Nov. 2, 1994, 108 Stat. 4685; Pub. L. 105–33, title VIII, §§ 8021(b), 8023(b)(3), Aug. 5, 1997, 111 Stat. 665, 667; Pub. L. 106–117, title II, § 201(a), Nov. 30, 1999, 113 Stat. 1560; Pub. L. 108–7, div. K, title I, § 113(c), Feb. 20, 2003, 117 Stat. 482; Pub. L. 108–170, title I, § 101(b), Dec. 6, 2003, 117 Stat. 2043.)

AMENDMENTS

2003—Subsec. (a)(3)(B), (C). Pub. L. 108–170 added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c). Pub. L. 108–7, § 113(c)(1), substituted ''under this section'' for ''under subsection (a)'' in first sentence and struck out second sentence which read as follows: ''Amounts collected through use of the authority under subsection (b) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund.''

Subsec. (d). Pub. L. 108–7, § 113(c)(2), struck out subsec. (d) which read as follows: ''The provisions of subsection (a) expire on September 30, 2002.''

1999—Subsec. (b). Pub. L. 106–117, § 201(a)(1), (2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–117, § 201(a)(1), (3), redesignated subsec. (b) as (c), substituted ''subsection (a)'' for ''this section'', and inserted at end ''Amounts collected through use of the authority under subsection (b) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund.'' Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–117, § 201(a)(1), redesignated subsec. (c) as (d).

1997—Subsec. (b). Pub. L. 105–33, § 8023(b)(3), substituted ''Medical Care Collections Fund'' for ''Medical-Care Cost Recovery Fund''.

Subsec. (c). Pub. L. 105–33, § 8021(b), substituted ''September 30, 2002'' for ''September 30, 1998''.

1994—Subsec. (a)(1). Pub. L. 103–446 substituted ''veteran to pay'' for ''veteran) to pay''.

1993—Subsec. (c). Pub. L. 103–66 substituted ''1998'' for ''1992'' in first sentence and struck out at end ''Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1997.''

1992—Subsec. (a)(1). Pub. L. 102–568, § 605(a)(1), struck out ''(other than a veteran with a service-connected disability rated 50 percent or more'' after ''require a veteran''.

Subsec. (a)(3). Pub. L. 102–568, § 605(a)(2), added par. (3).

Subsec. (c). Pub. L. 102–568, § 606(a), inserted at end ''Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1997.''

1991—Pub. L. 102–83 renumbered section 622A of this title as this section.

Subsec. (c). Pub. L. 102–139, as amended by Pub. L. 102–229, substituted ''September 30, 1992'' for ''September 30, 1991''.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 8023(b)(3) of Pub. L. 105–33 effective Oct. 1, 1997, see section 8023(g) of Pub. L. 105–33, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 605(b) of Pub. L. 102–568 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to medication furnished after the date of the enactment of this Act [Oct. 29, 1992].''

EFFECTIVE AND TERMINATION DATES

Section to remain in effect through the period covered by Pub. L. 102–145, see section 111 of Pub. L.

102–145, set out as an Effective and Termination Dates of 1990 Amendment note under section 1710 of this title.

Section to remain in effect through the period covered by Pub. L. 102–109, see section 111 of Pub. L. 102–109, set out as an Effective and Termination Dates of 1990 Amendment note under section 1710 of this title.

Section 8012(b) of Pub. L. 101–508 provided that: "The amendments made by subsection (a) [enacting this section] shall take effect with respect to medication furnished to a veteran after October 31, 1990, or the date of the enactment of this Act [Nov. 5, 1990], whichever is later."

§ 1723. Furnishing of clothing

The Secretary shall not furnish clothing to persons who are in Department facilities, except (1) where the furnishing of such clothing to indigent persons is necessary to protect health or sanitation, and (2) where the Secretary furnishes veterans with special clothing made necessary by the wearing of prosthetic appliances.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144, § 623; Pub. L. 94–581, title II, § 210(a)(10), Oct. 21, 1976, 90 Stat. 2863; renumbered § 1723 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1723 was renumbered section 3523 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 623 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

1976—Pub. L. 94–581 substituted "the Administrator furnishes" for "he furnishes".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1724. Hospital care, medical services, and nursing home care abroad

(a) Except as provided in subsections (b) and (c), the Secretary shall not furnish hospital or domiciliary care or medical services outside any State.

(b)(1) The Secretary may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Secretary determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

(A) if the veteran is in the Republic of the Philippines or in Canada; or

(B) if the Secretary determines, as a matter of discretion and pursuant to regulations which the Secretary shall prescribe, that it is appropriate and feasible to furnish such care and services.

(c) Within the limits of those facilities of the Veterans Memorial Medical Center at Manila, Republic of the Philippines, for which the Secretary may contract, the Secretary may furnish necessary hospital care to a veteran for any nonservice-connected disability if such veteran is unable to defray the expenses of necessary hospital care. The Secretary may enter into contracts to carry out this section.

(d) The Secretary may furnish nursing home care, on the same terms and conditions set forth in section 1720(a) of this title, to any veteran who has been furnished hospital care in the Philippines pursuant to this section, but who requires a protracted period of nursing home care.

(e) Within the limits of an outpatient clinic in the Republic of the Philippines that is under the direct jurisdiction of the Secretary, the Secretary may furnish a veteran who has a service-connected disability with such medical services as the Secretary determines to be needed.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144, § 624; Pub. L. 86–152, Aug. 11, 1959, 73 Stat. 332; Pub. L. 86–624, § 25(a), July 12, 1960, 74 Stat. 418; Pub. L. 87–815, § 4, Oct. 15, 1962, 76 Stat. 927; Pub. L. 93–82, title I, § 108, Aug. 2, 1973, 87 Stat. 186; Pub. L. 94–581, title II, §§ 202(*l*), 210(a)(11), Oct. 21, 1976, 90 Stat. 2856, 2863; Pub. L. 95–520, § 3(a), Oct. 26, 1978, 92 Stat. 1820; Pub. L. 97–72, title I, § 107(a), Nov. 3, 1981, 95 Stat. 1051; Pub. L. 97–295, § 4(20), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 100–322, title I, § 105, May 20, 1988, 102 Stat. 493; renumbered § 1724 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–377, § 1(a)(1) [title V, § 501(c)], Oct. 27, 2000, 114 Stat. 1441, 1441A–58.)

PRIOR PROVISIONS

Prior section 1724 was renumbered section 3524 of this title.

Prior section 1725, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1197, related to period of operation for approval by Administrator, prior to repeal by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090. See section 3689 of this title.

AMENDMENTS

2000—Subsec. (e). Pub. L. 106–377 added subsec. (e).

1991—Pub. L. 102–83, § 5(a), renumbered section 624 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted "1720(a)" for "620(a)".

1988—Subsec. (b). Pub. L. 100–322 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Administrator may furnish necessary hospital care and medical services to any otherwise eligible veteran for any service-connected disability if the veteran (1) is a citizen of the United States sojourning or residing abroad, or (2) is in the Republic of the Philippines."

1982—Pub. L. 97–295 substituted "Hospital care, medical services, and nursing home care abroad" for "Hospital care and medical services abroad" in section catchline, without regard to a prior amendment by Pub. L. 93–82, which had substituted "Hospital care, medical services and nursing home care abroad" for "Hospital care and medical services abroad". See 1973 Amendment note below.

1981—Subsec. (d). Pub. L. 97–72 struck out "and at the same rate as specified in section 632(a)(4) of this title" after "on the same terms and conditions set forth in section 620(a) of this title".

1978—Subsec. (c). Pub. L. 95–520 substituted "Veterans Memorial Medical Center" for "Veterans Memorial Hospital".

1976—Subsec. (c). Pub. L. 94–581 substituted ''the Administrator may furnish'' for ''he may furnish'' and ''hospital care to a veteran for any'' for ''hospital care to a veteran of any war for any''.

1973—Pub. L. 93–82, § 108(b), substituted ''Hospital care, medical services and nursing home care abroad'' for ''Hospital care and medical services abroad'' in section catchline.

Subsec. (d). Pub. L. 93–82, § 108(a), added subsec. (d).

1962—Subsec. (b). Pub. L. 87–815 struck out ''temporarily'' before ''sojourning''.

1960—Subsec. (a). Pub. L. 86–624 substituted ''outside any State'' for ''outside the continental limits of the United States, or a Territory, Commonwealth, or possession of the United States''.

1959—Subsec. (b). Pub. L. 86–152 extended authority to provide hospital and medical care for veterans who are United States citizens temporarily residing abroad to include those with peacetime service-incurred disabilities.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

§ 1725. Reimbursement for emergency treatment

(a) GENERAL AUTHORITY.—(1) Subject to subsections (c) and (d), the Secretary may reimburse a veteran described in subsection (b) for the reasonable value of emergency treatment furnished the veteran in a non-Department facility.

(2) In any case in which reimbursement is authorized under subsection (a)(1), the Secretary, in the Secretary's discretion, may, in lieu of reimbursing the veteran, make payment of the reasonable value of the furnished emergency treatment directly—

(A) to a hospital or other health care provider that furnished the treatment; or

(B) to the person or organization that paid for such treatment on behalf of the veteran.

(b) ELIGIBILITY.—(1) A veteran referred to in subsection (a)(1) is an individual who is an active Department health-care participant who is personally liable for emergency treatment furnished the veteran in a non-Department facility.

(2) A veteran is an active Department health-care participant if—

(A) the veteran is enrolled in the health care system established under section 1705(a) of this title; and

(B) the veteran received care under this chapter within the 24-month period preceding the furnishing of such emergency treatment.

(3) A veteran is personally liable for emergency treatment furnished the veteran in a non-Department facility if the veteran—

(A) is financially liable to the provider of emergency treatment for that treatment;

(B) has no entitlement to care or services under a health-plan contract (determined, in the case of a health-plan contract as defined in subsection (f)(2)(B) or (f)(2)(C), without regard to any requirement or limitation relating to eligibility for care or services from any department or agency of the United States);

(C) has no other contractual or legal recourse against a third party that would, in whole or in part, extinguish such liability to the provider; and

(D) is not eligible for reimbursement for medical care or services under section 1728 of this title.

(c) LIMITATIONS ON REIMBURSEMENT.—(1) The Secretary, in accordance with regulations prescribed by the Secretary, shall—

(A) establish the maximum amount payable under subsection (a);

(B) delineate the circumstances under which such payments may be made, to include such requirements on requesting reimbursement as the Secretary shall establish; and

(C) provide that in no event may a payment under that subsection include any amount for which the veteran is not personally liable.

(2) Subject to paragraph (1), the Secretary may provide reimbursement under this section only after the veteran or the provider of emergency treatment has exhausted without success all claims and remedies reasonably available to the veteran or provider against a third party for payment of such treatment.

(3) Payment by the Secretary under this section on behalf of a veteran to a provider of emergency treatment shall, unless rejected and refunded by the provider within 30 days of receipt, extinguish any liability on the part of the veteran for that treatment. Neither the absence of a contract or agreement between the Secretary and the provider nor any provision of a contract, agreement, or assignment to the contrary shall operate to modify, limit, or negate the requirement in the preceding sentence.

(d) INDEPENDENT RIGHT OF RECOVERY.—(1) In accordance with regulations prescribed by the Secretary, the United States shall have the independent right to recover any amount paid under this section when, and to the extent that, a third party subsequently makes a payment for the same emergency treatment.

(2) Any amount paid by the United States to the veteran (or the veteran's personal representative, successor, dependents, or survivors) or to any other person or organization paying for such treatment shall constitute a lien in favor of the United States against any recovery the payee subsequently receives from a third party for the same treatment.

(3) Any amount paid by the United States to the provider that furnished the veteran's emergency treatment shall constitute a lien against any subsequent amount the provider receives from a third party for the same emergency treatment for which the United States made payment.

(4) The veteran (or the veteran's personal representative, successor, dependents, or survivors) shall ensure that the Secretary is promptly notified of any payment received from any third party for emergency treatment furnished to the veteran. The veteran (or the veteran's personal representative, successor, dependents, or survivors) shall immediately forward all documents relating to such payment, cooperate with the Secretary in the investigation of such payment, and assist the Secretary in enforcing the United

States right to recover any payment made under subsection (c)(3).

(e) WAIVER.—The Secretary, in the Secretary's discretion, may waive recovery of a payment made to a veteran under this section that is otherwise required by subsection (d)(1) when the Secretary determines that such waiver would be in the best interest of the United States, as defined by regulations prescribed by the Secretary.

(f) DEFINITIONS.—For purposes of this section:

(1) The term ''emergency treatment'' means medical care or services furnished, in the judgment of the Secretary—

(A) when Department or other Federal facilities are not feasibly available and an attempt to use them beforehand would not be reasonable;

(B) when such care or services are rendered in a medical emergency of such nature that a prudent layperson reasonably expects that delay in seeking immediate medical attention would be hazardous to life or health; and

(C) until such time as the veteran can be transferred safely to a Department facility or other Federal facility.

(2) The term ''health-plan contract'' includes any of the following:

(A) An insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement under which health services for individuals are provided or the expenses of such services are paid.

(B) An insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of that Act (42 U.S.C. 1395j).

(C) A State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.).

(D) A workers' compensation law or plan described in section 1729(a)(2)(A) of this title.

(E) A law of a State or political subdivision described in section 1729(a)(2)(B) of this title.

(3) The term ''third party'' means any of the following:

(A) A Federal entity.

(B) A State or political subdivision of a State.

(C) An employer or an employer's insurance carrier.

(D) An automobile accident reparations insurance carrier.

(E) A person or entity obligated to provide, or to pay the expenses of, health services under a health-plan contract.

(Added Pub. L. 106–117, title I, § 111(a), Nov. 30, 1999, 113 Stat. 1553.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (f)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

EFFECTIVE DATE

Pub. L. 106–117, title I, § 111(c), Nov. 30, 1999, 113 Stat. 1556, provided that: ''The amendments made by this section [enacting this section and amending section 1729A of this title] shall take effect 180 days after the date of the enactment of this Act [Nov. 30, 1999].''

IMPLEMENTATION REPORTS

Pub. L. 106–117, title I, § 111(d), Nov. 30, 1999, 113 Stat. 1556, provided that: ''The Secretary [of Veterans Affairs] shall include with the budget justification materials submitted to Congress in support of the Department of Veterans Affairs budget for fiscal year 2002 and for fiscal year 2003 a report on the implementation of section 1725 of title 38, United States Code, as added by subsection (a). Each such report shall include information on the experience of the Department under that section and the costs incurred, and expected to be incurred, under that section.''

§ 1726. Reimbursement for loss of personal effects by natural disaster

The Secretary shall, under regulations which the Secretary shall prescribe, reimburse veterans in Department hospitals and domiciliaries for any loss of personal effects sustained by fire, earthquake, or other natural disaster while such effects were stored in designated locations in Department hospitals or domiciliaries.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144, § 627; Pub. L. 93–82, title I, § 105, Aug. 2, 1973, 87 Stat. 183; Pub. L. 94–581, title II, § 210(a)(12), Oct. 21, 1976, 90 Stat. 2863; renumbered § 1726 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1726, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1197, provided for control by agencies of United States, prior to repeal by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See section 3689 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 626 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

1976—Pub. L. 94–581 substituted ''the Administrator shall prescribe'' for ''he shall prescribe''.

1973—Pub. L. 93–82 substituted ''natural disaster'' for ''fire'' in section catchline and extended reimbursement provisions to earthquake and other natural disasters also.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Jan. 1, 1971, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

§ 1727. Persons eligible under prior law

Persons who have a status which would, under the laws in effect on December 31, 1957, entitle them to the medical services, hospital and domiciliary care, and other benefits, provided for in this chapter, but who do not meet the service requirements contained in this chapter, shall be entitled to such benefits notwithstanding failure to meet such service requirements.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144, § 627; Pub. L. 94–581, title II, § 202(m), Oct. 21, 1976, 90 Stat. 2856; renumbered § 1727 Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 627 of this title as this section.

1976—Pub. L. 94–581 substituted ''1957'' for ''1958''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1728. Reimbursement of certain medical expenses

(a) The Secretary may, under such regulations as the Secretary shall prescribe, reimburse veterans entitled to hospital care or medical services under this chapter for the reasonable value of such care or services (including travel and incidental expenses under the terms and conditions set forth in section 111 of this title), for which such veterans have made payment, from sources other than the Department, where—

(1) such care or services were rendered in a medical emergency of such nature that delay would have been hazardous to life or health;

(2) such care or services were rendered to a veteran in need thereof (A) for an adjudicated service-connected disability, (B) for a non-service-connected disability associated with and held to be aggravating a service-connected disability, (C) for any disability of a veteran who has a total disability permanent in nature from a service-connected disability, or (D) for any illness, injury, or dental condition in the case of a veteran who (i) is a participant in a vocational rehabilitation program (as defined in section 3101(9) of this title), and (ii) is medically determined to have been in need of care or treatment to make possible such veteran's entrance into a course of training, or prevent interruption of a course of training, or hasten the return to a course of training which was interrupted because of such illness, injury, or dental condition; and

(3) Department or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practical.

(b) In any case where reimbursement would be in order under subsection (a) of this section, the Secretary may, in lieu of reimbursing such veteran, make payment of the reasonable value of care or services directly—

(1) to the hospital or other health facility furnishing the care or services; or

(2) to the person or organization making such expenditure on behalf of such veteran.

(Added Pub. L. 93–82, title I, § 106(a), Aug. 2, 1973, 87 Stat. 183, § 628; amended Pub. L. 94–581, title II, §§ 202(n), 210(a)(13), Oct. 21, 1976, 90 Stat. 2856, 2863; Pub. L. 96–151, title II, § 201(d), Dec. 20, 1979, 93 Stat. 1093; Pub. L. 101–237, title II, § 202(a), Dec. 18, 1989, 103 Stat. 2066; Pub. L. 102–54, § 14(b)(14), June 13, 1991, 105 Stat. 284; renumbered § 1728 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 628 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions and in par. (3).

Subsec. (a)(2)(D). Pub. L. 102–83, § 5(c)(1), substituted ''3101(9)'' for ''1501(9)''.

Pub. L. 102–54 substituted ''(i) is'' for ''is (i)''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

1989—Subsec. (a)(2)(D). Pub. L. 101–237 substituted ''(i) a participant in a vocational rehabilitation program (as defined in section 1501(9) of this title), and (ii)'' for ''found to be (i) in need of vocational rehabilitation under chapter 31 of this title and for whom an objective had been selected or (ii) pursuing a course of vocational rehabilitation training and''.

1979—Subsec. (a). Pub. L. 96–151 substituted provisions relating to travel and incidental expenses for provisions relating to necessary travel.

1976—Subsec. (a). Pub. L. 94–581 substituted ''as the Administrator shall prescribe'' for ''as he shall prescribe'' in provisions preceding par. (1), substituted ''delay'' for ''they'' in par. (1), and substituted ''make possible such veteran's entrance'' for ''make possible his entrance'' in par. (2)(D)(ii).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 202(b) of Pub. L. 101–237 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to hospital care and medical services received on or after the date of the enactment of this Act [Dec. 18, 1989].''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–151 effective Jan. 1, 1980, see section 206 of Pub. L. 96–151, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1971, see section 501 of Pub. L. 93–82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

§ 1729. Recovery by the United States of the cost of certain care and services

(a)(1) Subject to the provisions of this section, in any case in which a veteran is furnished care or services under this chapter for a non-service-connected disability described in paragraph (2) of this subsection, the United States has the right to recover or collect reasonable charges for such care or services (as determined by the Secretary) from a third party to the extent that the veteran (or the provider of the care or services) would be eligible to receive payment for such care or services from such third party if the care or services had not been furnished by a department or agency of the United States.

(2) Paragraph (1) of this subsection applies to a non-service-connected disability—

(A) that is incurred incident to the veteran's employment and that is covered under a workers' compensation law or plan that provides for payment for the cost of health care and

services provided to the veteran by reason of the disability;

(B) that is incurred as the result of a motor vehicle accident to which applies a State law that requires the owners or operators of motor vehicles registered in that State to have in force automobile accident reparations insurance;

(C) that is incurred as the result of a crime of personal violence that occurred in a State, or a political subdivision of a State, in which a person injured as the result of such a crime is entitled to receive health care and services at such State's or subdivision's expense for personal injuries suffered as the result of such crime;

(D) that is incurred by a veteran—

(i) who does not have a service-connected disability; and

(ii) who is entitled to care (or payment of the expenses of care) under a health-plan contract; or

(E) for which care and services are furnished before October 1, 2007, under this chapter to a veteran who—

(i) has a service-connected disability; and

(ii) is entitled to care (or payment of the expenses of care) under a health-plan contract.

(3) In the case of a health-plan contract that contains a requirement for payment of a deductible or copayment by the veteran—

(A) the veteran's not having paid such deductible or copayment with respect to care or services furnished under this chapter shall not preclude recovery or collection under this section; and

(B) the amount that the United States may collect or recover under this section shall be reduced by the appropriate deductible or copayment amount, or both.

(b)(1) As to the right provided in subsection (a) of this section, the United States shall be subrogated to any right or claim that the veteran (or the veteran's personal representative, successor, dependents, or survivors) may have against a third party.

(2)(A) In order to enforce any right or claim to which the United States is subrogated under paragraph (1) of this subsection, the United States may intervene or join in any action or proceeding brought by the veteran (or the veteran's personal representative, successor, dependents, or survivors) against a third party.

(B) The United States may institute and prosecute legal proceedings against the third party if—

(i) an action or proceeding described in subparagraph (A) of this paragraph is not begun within 180 days after the first day on which care or services for which recovery is sought are furnished to the veteran by the Secretary under this chapter;

(ii) the United States has sent written notice by certified mail to the veteran at the veteran's last-known address (or to the veteran's personal representative or successor) of the intention of the United States to institute such legal proceedings; and

(iii) a period of 60 days has passed following the mailing of such notice.

(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.

(c)(1) The Secretary may compromise, settle, or waive any claim which the United States has under this section.

(2)(A) The Secretary, after consultation with the Comptroller General of the United States, shall prescribe regulations for the purpose of determining reasonable charges for care or services under subsection (a)(1) of this section. Any determination of such charges shall be made in accordance with such regulations.

(B) Such regulations shall provide that reasonable charges for care or services sought to be recovered or collected from a third-party liable under a health-plan contract may not exceed the amount that such third party demonstrates to the satisfaction of the Secretary it would pay for the care or services if provided by facilities (other than facilities of departments or agencies of the United States) in the same geographic area.

(C) Not later than 45 days after the date on which the Secretary prescribes such regulations (or any amendment to such regulations), the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives the Comptroller General's comments on and recommendations regarding such regulations (or amendment).

(d) Any contract or agreement into which the Secretary enters with a person under section 3718 of title 31 for collection services to recover indebtedness owed the United States under this section shall provide, with respect to such services, that such person is subject to sections 5701 and 7332 of this title.

(e) A veteran eligible for care or services under this chapter—

(1) may not be denied such care or services by reason of this section; and

(2) may not be required by reason of this section to make any copayment or deductible payment in order to receive such care.

(f) No law of any State or of any political subdivision of a State, and no provision of any contract or other agreement, shall operate to prevent recovery or collection by the United States under this section or with respect to care or services furnished under section 1784 of this title.

[(g) Repealed. Pub. L. 105–33, title VIII, § 8023(b)(4), Aug. 5, 1997, 111 Stat. 667.]

(h)(1) Subject to paragraph (3) of this subsection, the Secretary shall make available medical records of a veteran described in paragraph (2) of this subsection for inspection and review by representatives of the third party concerned for the sole purposes of permitting the third party to verify—

(A) that the care or services for which recovery or collection is sought were furnished to the veteran; and

(B) that the provision of such care or services to the veteran meets criteria generally applicable under the health-plan contract involved.

(2) A veteran described in this paragraph is a veteran who is a beneficiary of a health-plan

contract under which recovery or collection is sought under this section from the third party concerned for the cost of the care or services furnished to the veteran.

(3) Records shall be made available under this subsection under such conditions to protect the confidentiality of such records as the Secretary shall prescribe in regulations.

(i) For purposes of this section—

(1)(A) The term ''health-plan contract'' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar arrangement, under which health services for individuals are provided or the expenses of such services are paid.

(B) Such term does not include—

(i) an insurance program described in section 1811 of the Social Security Act (42 U.S.C. 1395c) or established by section 1831 of such Act (42 U.S.C. 1395j);

(ii) a State plan for medical assistance approved under title XIX of such Act (42 U.S.C. 1396 et seq.);

(iii) a workers' compensation law or plan described in subparagraph (A) of subsection (a)(2) of this section; or

(iv) a program, plan, or policy under a law described in subparagraph (B) or (C) of such subsection.

(2) The term ''payment'' includes reimbursement and indemnification.

(3) The term ''third party'' means—

(A) a State or political subdivision of a State;

(B) an employer or an employer's insurance carrier;

(C) an automobile accident reparations insurance carrier; or

(D) a person obligated to provide, or to pay the expenses of, health services under a health-plan contract.

(Added Pub. L. 97–72, title I, § 106(a)(1), Nov. 3, 1981, 95 Stat. 1050, § 629; amended Pub. L. 99–272, title XIX, § 19013(a), Apr. 7, 1986, 100 Stat. 382; Pub. L. 100–322, title II, § 202, May 20, 1988, 102 Stat. 509; Pub. L. 101–508, title VIII, § 8011(a)–(c), Nov. 5, 1990, 104 Stat. 1388–344; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1729 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–568, title VI, § 604, Oct. 29, 1992, 106 Stat. 4343; Pub. L. 103–66, title XII, § 12003, Aug. 10, 1993, 107 Stat. 414; Pub. L. 104–262, title I, § 101(d)(10), Oct. 9, 1996, 110 Stat. 3180; Pub. L. 105–33, title VIII, §§ 8022, 8023(b)(4), (d), Aug. 5, 1997, 111 Stat. 665, 667; Pub. L. 107–135, title II, §§ 208(e)(4), 209(b), Jan. 23, 2002, 115 Stat. 2463, 2464.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (i)(1)(B)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a)(2)(E). Pub. L. 107–135, § 209(b), substituted ''October 1, 2007'' for ''October 1, 2002''.

Subsec. (f). Pub. L. 107–135, § 208(e)(4), substituted ''section 1784'' for ''section 1711(b)''.

1997—Subsec. (a)(1). Pub. L. 105–33, § 8023(d)(1), substituted ''reasonable charges for'' for ''the reasonable cost of''.

Subsec. (a)(2)(E). Pub. L. 105–33, § 8022, substituted ''October 1, 2002'' for ''October 1, 1998''.

Subsec. (c)(2)(A). Pub. L. 105–33, § 8023(d)(2), substituted ''reasonable charges for'' for ''the reasonable cost of'' and ''such charges'' for ''such cost''.

Subsec. (c)(2)(B). Pub. L. 105–33, § 8023(d)(2)(A), substituted ''reasonable charges for'' for ''the reasonable cost of''.

Subsec. (g). Pub. L. 105–33, § 8023(b)(4), struck out subsec. (g) which established in the Treasury a fund known as the Department of Veterans Affairs Medical-Care Cost Recovery Fund and provided for deposits to and payments from the Fund.

1996—Subsec. (g)(3)(A). Pub. L. 104–262 substituted ''under subsection (f) or (g) of section 1710 of this title for hospital care, medical services, or nursing home care'' for ''under section 1710(f) of this title for hospital care or nursing home care, under section 1712(f) of this title for medical services,''.

1993—Subsec. (a)(2)(E). Pub. L. 103–66 substituted ''October 1, 1998'' for ''August 1, 1994''.

1992—Subsec. (a)(2)(E). Pub. L. 102–568 substituted ''August 1, 1994'' for ''October 1, 1993''.

1991—Pub. L. 102–83, § 5(a), renumbered section 629 of this title as this section.

Subsecs. (a) to (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5701'' for ''3301'' and ''7332'' for ''4132''.

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted ''1711(b)'' for ''611(b)''.

Subsec. (g)(3)(A). Pub. L. 102–83, § 5(c)(1), substituted ''1710(f)'' for ''610(f)'', ''1712(f)'' for ''612(f)'', and ''1722A'' for ''622A'' in introductory provisions.

Subsec. (h)(1), (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1990—Subsec. (a)(2)(E). Pub. L. 101–508, § 8011(a), added subpar. (E).

Subsec. (c)(2)(B). Pub. L. 101–508, § 8011(b), substituted ''if provided by'' for ''in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with''.

Subsec. (g). Pub. L. 101–508, § 8011(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''Amounts collected or recovered on behalf of the United States under this section shall be deposited into the Treasury as miscellaneous receipts.''

1988—Subsec. (b)(2)(C). Pub. L. 100–322 added subpar. (C).

1986—Pub. L. 99–272 amended section generally, inserting authority to recover from a third party under a health-plan contract the reasonable costs of a non-service-connected disability, to require the Administrator to prescribe regulations to govern determination of reasonable costs, to authorize the compromise, settlement or waiver of claims, and to provide for the deposit of money collected under this section in the Treasury.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 8023(b)(4) of Pub. L. 105–33 effective Oct. 1, 1997, and amendment by section 8023(d) of Pub. L. 105–33 effective Aug. 5, 1997, see section 8023(g) of Pub. L. 105–33, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8011(e) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section] shall take effect as of October 1, 1990.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 19013(b) of Pub. L. 99–272 provided that:

''(1) Except as provided in paragraph (2), section 629 [now 1729] of title 38, United States Code, as amended by subsection (a), shall apply to care and services provided on or after the date of the enactment of this Act [Apr. 7, 1986].

''(2)(A) Such section shall not apply so as to nullify any provision of a health-plan contract (as defined in subsection (i) of such section) that—

''(i) was entered into before the date of the enactment of this Act; and

''(ii) is not modified or renewed on or after such date.

''(B) In the case of a health-plan contract (as so defined) that was entered into before such date and which is modified or renewed on or after such date, the amendment made by subsection (a) [amending this section] shall apply—

''(i) with respect to such plan as of the day after the date that it is so modified or renewed; and

''(ii) with respect to care and services provided after such date of modification or renewal.

''(3) For purposes of paragraph (2), the term 'modified' includes any change in premium or coverage.''

EFFECTIVE DATE

Section 106(b) of Pub. L. 97–72 provided that: ''Section 629 [now 1729] of title 38, United States Code, as added by subsection (a), shall apply with respect to care and services furnished under chapter 17 of title 38, United States Code, on or after the date of the enactment of this Act [Nov. 3, 1981].''

HEALTHCARE FACILITIES CERTIFIED AS MEDICARE AND MEDICAID PROVIDERS FOR COLLECTION PURPOSES

Pub. L. 107–206, title I, Aug. 2, 2002, 116 Stat. 888, provided in part: ''That for the purposes of enabling the collection from third-party insurance carriers for non-service related medical care of veterans, all Department of Veterans Affairs healthcare facilities are hereby certified as Medicare and Medicaid providers and the Centers for Medicare and Medicaid Services within the Department of Health and Human Services shall issue each Department of Veterans Affairs healthcare facility a provider number as soon as practicable after the date of enactment of this Act [Aug. 2, 2002]: *Provided further*, That nothing in the preceding proviso shall be construed to enable the Department of Veterans Affairs to bill Medicare or Medicaid for any medical services provided by the Veterans Health Administration or to require the Centers for Medicare and Medicaid Services to pay for any medical services provided by the Department of Veterans Affairs''.

DISPOSITION OF FUNDS IN AND TERMINATION OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL-CARE COST RECOVERY FUND

Section 8023(c) of Pub. L. 105–33 provided that: ''The amount of the unobligated balance remaining in the Department of Veterans Affairs Medical-Care Cost Recovery Fund (established pursuant to section 1729(g)(1) of title 38, United States Code) at the close of June 30, 1997, shall be deposited, not later than December 31, 1997, in the Treasury as miscellaneous receipts, and the Department of Veterans Affairs Medical-Care Cost Recovery Fund shall be terminated when the deposit is made.''

TRANSFERS TO MEDICAL-CARE COST RECOVERY FUND

Section 8011(d) of Pub. L. 101–508, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that the Secretary of the Treasury was to transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Medical-Care Cost Recovery Fund and that the amount so transferred was to be available until the end of Sept. 30, 1991, for the support of the equivalent of 800 full-time employees and other expenses described in former subsec. (g)(3) of this section, and provided that the first $25,000,000 recovered or collected by the Department of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities was to be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

REPORTS ON IMPLEMENTATION OF 1986 AMENDMENT

Section 19013(c) of Pub. L. 99–272 directed Administrator of Veterans' Affairs, not later than six months after Apr. 7, 1986, to submit to Committees on Veterans' Affairs of Senate and House of Representatives a report on the process for and results of implementation of this section, as amended by subsection (a), such report to show costs of administration (and a detailed breakdown of such costs) and the amount of receipts and collections under this section, and not later than Feb. 1, 1988, to submit to such Committees a report updating the information in the report previously submitted and providing information on the process and results of such implementation through at least the end of fiscal year 1987.

§ 1729A. Department of Veterans Affairs Medical Care Collections Fund

(a) There is in the Treasury a fund to be known as the Department of Veterans Affairs Medical Care Collections Fund.

(b) Amounts recovered or collected under any of the following provisions of law shall be deposited in the fund:

(1) Section 1710(f) of this title.

(2) Section 1710(g) of this title.

(3) Section 1711 of this title.

(4) Section 1722A of this title.

(5) Section 1725 of this title.

(6) Section 1729 of this title.

(7) Section 1784 of this title.

(8) Section 8165(a) of this title.

(9) Section 113 of the Veterans Millennium Health Care and Benefits Act (Public Law 106–117; 38 U.S.C. 8111 note).

(10) Public Law 87–693, popularly known as the ''Federal Medical Care Recovery Act'' (42 U.S.C. 2651 et seq.), to the extent that a recovery or collection under that law is based on medical care or services furnished under this chapter.

(c)(1) Subject to the provisions of appropriations Acts, amounts in the fund shall be available, without fiscal year limitation, to the Secretary for the following purposes:

(A) Furnishing medical care and services under this chapter, to be available during any fiscal year for the same purposes and subject to the same limitations (other than with respect to the period of availability for obligation) as apply to amounts appropriated from the general fund of the Treasury for that fiscal year for medical care.

(B) Expenses of the Department for the identification, billing, auditing, and collection of amounts owed the United States by reason of medical care and services furnished under this chapter.

(2) Amounts available under paragraph (1) may not be used for any purpose other than a purpose set forth in subparagraph (A) or (B) of that paragraph.

(d) Of the total amount recovered or collected by the Department during a fiscal year under the provisions of law referred to in subsection (b) and made available from the fund, the Secretary shall make available to each Department

health care facility of the Department an amount that bears the same ratio to the total amount so made available as the amount recovered or collected by such facility during that fiscal year under such provisions of law bears to such total amount recovered or collected during that fiscal year. The Secretary shall make available to each facility the entirety of the amount specified to be made available to such facility by the preceding sentence.

(e) Amounts recovered or collected under the provisions of law referred to in subsection (b) shall be treated for the purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901, 902) as offsets to discretionary appropriations (rather than as offsets to direct spending) to the extent that such amounts are made available for expenditure in appropriations Acts for the purposes specified in subsection (c).

(Added Pub. L. 105–33, title VIII, § 8023(a)(1), Aug. 5, 1997, 111 Stat. 665; amended Pub. L. 106–117, title I, § 111(b)(1), title II, § 203, Nov. 30, 1999, 113 Stat. 1556, 1561; Pub. L. 107–135, title II, § 208(e)(5), Jan. 23, 2002, 115 Stat. 2463; Pub. L. 108–7, div. K, title I, § 113(b), Feb. 20, 2003, 117 Stat. 482; Pub. L. 108–183, title VII, § 708(a)(2), Dec. 16, 2003, 117 Stat. 2673.)

REFERENCES IN TEXT

Public Law 87–693, popularly known as the Federal Medical Care Recovery Act, referred to in subsec. (b)(10), is Pub. L. 87–693, Sept. 25, 1962, 76 Stat. 593, which is classified generally to chapter 32 (§ 2651 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–183, § 708(a)(2)(A), struck out ''after June 30, 1997,'' after ''collected'' in introductory provisions.

Subsec. (b)(8) to (10). Pub. L. 108–7 added pars. (8) and (9) and redesignated former par. (8) as (10).

Subsec. (c)(3). Pub. L. 108–183, § 708(a)(2)(B), struck out par. (3) which related to duties of the Secretary for fiscal year 1998.

Subsecs. (e), (f). Pub. L. 108–183, § 708(a)(2)(C), (D), redesignated subsec. (f) as (e) and struck out former subsec. (e) which required the Secretary to submit to the Committees on Veterans' Affairs of the Senate and House of Representatives quarterly reports on the operation of the section for fiscal years 1998, 1999, and 2000 and for the first quarter of fiscal year 2001.

2002—Subsec. (b)(7), (8). Pub. L. 107–135 added par. (7) and redesignated former par. (7) as (8).

1999—Subsec. (b)(5) to (7). Pub. L. 106–117, § 111(b)(1), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (d). Pub. L. 106–117, § 203, struck out par. (1) designation, substituted ''each Department health care facility'' for ''each designated health care region'' and ''each facility'' for ''each region'', substituted ''such facility'' for ''such region'' in two places, and struck out par. (2) which read as follows: ''In this subsection, the term 'designated health care regions of the Department' means the geographic areas designated by the Secretary for purposes of the management of, and allocation of resources for, health care services provided by the Department.''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 111(b)(1) of Pub. L. 106–117 effective 180 days after Nov. 30, 1999, see section 111(c) of Pub. L. 106–117, set out as an Effective Date note under section 1725 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1997, see section 8023(g) of Pub. L. 105–33, set out as an Effective Date of 1997 Amendment note under section 1710 of this title.

MEDICAL SERVICES ACCOUNTS

Pub. L. 108–447, div. I, title I, § 115, Dec. 8, 2004, 118 Stat. 3293, provided that:

''(a) Hereafter receipts that would otherwise be credited to the accounts listed in subsection (c) shall be deposited into the Medical Care Collections Fund, and shall be transferred to and merged with the 'Medical services' account, in fiscal year 2005 and subsequent years, to remain available until expended, to carry out the purposes of the 'Medical services' account.

''(b) The unobligated balances in the accounts listed in subsection (c), shall be transferred to and merged with the 'Medical services' account in fiscal year 2005 and subsequent years, and remain available until expended, to carry out the purposes of the 'Medical services' account: *Provided*, That the obligated balances in these accounts may be transferred to the 'Medical services' account at the discretion of the Secretary of Veterans Affairs and shall remain available until expended.

''(c) Veterans Extended Care Revolving Fund; Medical Facilities Revolving Fund; Special Therapeutic and Rehabilitation Fund; Nursing Home Revolving Fund; Veterans Health Services Improvement Fund; and Parking Revolving Fund.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 108–199, div. G, title I, § 115, Jan. 23, 2004, 118 Stat. 370.

REPORT ON IMPLEMENTATION OF SECTION 8023 OF PUB. L. 105–33

Section 8023(f) of Pub. L. 105–33 provided that: ''Not later than January 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section [enacting this section, amending sections 712, 1710, 1722A, and 1729 of this title, and enacting provisions set out as notes under sections 712 and 1729 of this title]. The report shall describe the collections under each of the provisions specified in section 1729A(b) of title 38, United States Code, as added by subsection (a). Information on such collections shall be shown for each of the health service networks (known as Veterans Integrated Service Networks) and, to the extent practicable for each facility within each such network. The Secretary shall include in the report an analysis of differences among the networks with respect to (A) the market in which the networks operates, (B) the effort expended to achieve collections, (C) the efficiency of such effort, and (D) any other relevant information.''

[§ 1729B. Repealed. Pub. L. 108–7, div. K, title I, § 113(a)(1), Feb. 20, 2003, 117 Stat. 482]

Section, added Pub. L. 106–117, title II, § 202(a), Nov. 30, 1999, 113 Stat. 1561; amended Pub. L. 107–103, title V, § 509(c), Dec. 27, 2001, 115 Stat. 997; Pub. L. 107–330, title III, § 308(g)(7), Dec. 6, 2002, 116 Stat. 2829, related to the Department of Veterans Affairs Health Services Improvement Fund.

TRANSFER OF BALANCE

Pub. L. 108–7, div. K, title I, § 113(a)(1), Feb. 20, 2003, 117 Stat. 482, provided that: ''Section 1729B of title 38, United States Code, is repealed. Any balance as of the date of the enactment of this Act [Feb. 20, 2003] in the Department of Veterans Affairs Health Services Improvement Fund established under such section shall be transferred to the Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of title 38, United States Code.''

§ 1730. Community residential care

(a) Subject to this section and regulations to be prescribed by the Secretary under this section, the Secretary may assist a veteran by referring such veteran for placement in, and aiding such veteran in obtaining placement in, a community residential-care facility if—

(1) at the time of initiating the assistance the Secretary—

(A) is furnishing the veteran medical services on an outpatient basis or hospital, domiciliary, or nursing home care; or

(B) has furnished the veteran such care or services within the preceding 12 months; and

(2) placement of the veteran in a community residential-care facility is appropriate.

(b)(1) The Secretary may not provide assistance under subsection (a) of this section with respect to a community residential-care facility unless such facility is approved by the Secretary for the purposes of this section.

(2) The Secretary's approval of a facility for the purposes of this section shall be based upon the Secretary's determination, after inspection of the facility, that the facility meets the standards established in regulations prescribed under this section. Such standards shall include the following:

(A) Health and safety criteria, including a requirement of compliance with applicable State laws and local ordinances relating to health and safety.

(B) A requirement that the costs charged for care by a facility be reasonable, as determined by the Secretary, giving consideration to such factors as (i) the level of care, supervision, and other services to be provided, (ii) the cost of goods and services in the geographic area in which the facility is located, and (iii) comparability with other facilities in such area providing similar services.

(C) Criteria for determining the resources that a facility needs in order to provide an appropriate level of services to veterans.

(D) Such other criteria as the Secretary determines are appropriate to protect the welfare of veterans placed in a facility under this section.

(3) Payment of the charges of a community residential-care facility for any care or service provided to a veteran whom the Secretary has referred to that facility under this section is not the responsibility of the United States or of the Department.

(c)(1) In order to determine continued compliance by community residential-care facilities that have been approved under subsection (b) of this section with the standards established in regulations prescribed under this section, the Secretary shall provide for periodic inspection of such facilities.

(2) If the Secretary determines that a facility is not in compliance with such standards, the Secretary (in accordance with regulations prescribed under this section)—

(A) shall cease to refer veterans to such facility; and

(B) may, with the permission of the veteran (or the person or entity authorized by law to give permission on behalf of the veteran), assist in removing a veteran from such facility.

Regulations prescribed to carry out this paragraph shall provide for reasonable notice and, upon request made on behalf of the facility, a hearing before any action authorized by this paragraph is taken.

(d) The Secretary shall prescribe regulations to carry out this section. Such regulations shall include the standards required by subsection (b) of this section.

(e)(1) To the extent possible, the Secretary shall make available each report of an inspection of a community residential-care facility under subsection (b)(2) or (c)(1) of this section to each Federal, State, and local agency charged with the responsibility of licensing or otherwise regulating or inspecting such facility.

(2) The Secretary shall make the standards prescribed in regulations under subsection (d) of this section available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting community residential-care facilities.

(f) For the purpose of this section, the term ''community residential-care facility'' means a facility that provides room and board and such limited personal care for and supervision of residents as the Secretary determines, in accordance with regulations prescribed under this section, are necessary for the health, safety, and welfare of residents.

(Added Pub. L. 98–160, title I, § 104(a), Nov. 21, 1983, 97 Stat. 996, § 630; amended Pub. L. 102–54, § 14(b)(15), June 13, 1991, 105 Stat. 284; renumbered § 1730 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 630 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–54 struck out ''(1)'' after ''(a)'' and redesignated former subpar. (A) as par. (1), cls. (i) and (ii) as subpars. (A) and (B), respectively, and former subpar. (B) as par. (2).

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing and ''Secretary's'' for ''Administrator's'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in par. (3).

Subsecs. (c) to (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

SUBCHAPTER IV—HOSPITAL CARE AND MEDICAL TREATMENT FOR VETERANS IN THE REPUBLIC OF THE PHILIPPINES

AMENDMENTS

1981—Pub. L. 97–72, title I, § 107(d)(1), Nov. 3, 1981, 95 Stat. 1053, substituted ''HOSPITAL CARE AND MEDICAL TREATMENT FOR VETERANS IN THE REPUBLIC OF THE PHILIPPINES'' for ''HOSPITAL AND MEDICAL CARE FOR COMMONWEALTH OF THE PHILIPPINES ARMY VETERANS'' in subchapter heading.

§ 1731. Assistance to the Republic of the Philippines

The President is authorized to assist the Republic of the Philippines in fulfilling its respon-

sibility in providing medical care and treatment for Commonwealth Army veterans and new Philippine Scouts in need of such care and treatment for service-connected disabilities and nonservice-connected disabilities under certain conditions.

(Added Pub. L. 93–82, title I, § 107(a), Aug. 2, 1973, 87 Stat. 184, § 631; amended Pub. L. 97–72, title I, § 107(b), Nov. 3, 1981, 95 Stat. 1052; renumbered § 1731, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 1731 was renumbered section 3531 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 631 of this title as this section.

1981—Pub. L. 97–72 inserted ''in fulfilling its responsibility'' after ''The President is authorized to assist the Republic of the Philippines''.

EFFECTIVE DATE

Section effective July 1, 1973, see section 501 of Pub. L. 93–82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

§ 1732. Contracts and grants to provide for the care and treatment of United States veterans by the Veterans Memorial Medical Center

(a) The President, with the concurrence of the Republic of the Philippines, may authorize the Secretary to enter into contracts with the Veterans Memorial Medical Center, with the approval of the appropriate department of the Government of the Republic of the Philippines, covering the period beginning on October 1, 1981, and ending on September 30, 1994, under which the United States—

(1) will provide for payments for hospital care and medical services (including nursing home care) in the Veterans Memorial Medical Center, as authorized by section 1724 of this title and on the terms and conditions set forth in such section, to eligible United States veterans at a per diem rate to be jointly determined for each fiscal year by the two Governments to be fair and reasonable; and

(2) may provide that payments for such hospital care and medical services provided to eligible United States veterans may consist in whole or in part of available medicines, medical supplies, and equipment furnished by the Secretary to the Veterans Memorial Medical Center at valuations therefor as determined by the Secretary, who may furnish such medicines, medical supplies, and equipment through the revolving supply fund pursuant to section 8121 of this title.

(b)(1) To further assure the effective care and treatment of United States veterans in the Veterans Memorial Medical Center, there is authorized to be appropriated for each fiscal year during the period beginning on October 1, 1981, and ending on September 30, 1990, the sum of $1,000,000 to be used by the Secretary for making grants to the Veterans Memorial Medical Center for the purpose of assisting the Republic of the Philippines in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of such center.

(2) Grants under this subsection shall be made on such terms and conditions as prescribed by the Secretary. Such terms and conditions may include a requirement of prior approval by the Secretary of the uses of the funds provided by such grants.

(3) Funds for such grants may be provided only from appropriations made to the Department for the specific purpose of making such grants.

(c) The Secretary may stop payments under a contract or grant under this section upon reasonable notice as stipulated by the contract or grant if the Republic of the Philippines and the Veterans Memorial Medical Center do not maintain the medical center in a well-equipped and effective operating condition as determined by the Secretary.

(d)(1) The authority of the Secretary to enter into contracts and to make grants under this section is effective for any fiscal year only to the extent that appropriations are available for that purpose.

(2) Appropriations made for the purpose of this section shall remain available until expended.

(Added Pub. L. 93–82, title I, § 107(a), Aug. 2, 1973, 87 Stat. 184, § 632; amended Pub. L. 94–581, title II, § 210(a)(14), Oct. 21, 1976, 90 Stat. 2863; Pub. L. 95–520, § 3(b), Oct. 26, 1978, 92 Stat. 1820; Pub. L. 97–72, title I, § 107(c)(1), Nov. 3, 1981, 95 Stat. 1052; Pub. L. 99–576, title II, § 206(a)(1), Oct. 28, 1986, 100 Stat. 3256; Pub. L. 100–687, div. B, title XV, § 1502(a), (b), Nov. 18, 1988, 102 Stat. 4132; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1732 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title III, § 304(a), Aug. 14, 1991, 105 Stat. 416; Pub. L. 102–585, title V, § 503, Nov. 4, 1992, 106 Stat. 4955.)

PRIOR PROVISIONS

Prior section 1732 was renumbered section 3532 of this title.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–585 substituted ''September 30, 1994'' for ''September 30, 1992''.

1991—Pub. L. 102–83, § 5(a), renumbered section 632 of this title as this section.

Subsec. (a). Pub. L. 102–86 amended subsec. (a) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''1992'' for ''1990''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1724'' for ''624''.

Subsec. (a)(2). Pub. L. 102–40, § 402(d)(1), substituted ''8121'' for ''5021''.

Subsec. (b)(1), (2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(3). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsecs. (c), (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsecs. (a), (b)(1). Pub. L. 100–687 substituted ''1990'' for ''1989'' in subsec. (a) and substituted ''1990'' for ''1989'' and ''$1,000,000'' for ''$500,000'' in subsec. (b)(1).

1986—Subsecs. (a), (b)(1). Pub. L. 99–576 substituted ''September 30, 1989'' for ''September 30, 1986''.

1981—Pub. L. 97–72 amended section generally, first by substituting Sept. 30, 1986, for Sept. 30, 1981, as the ending date for the period during which the President,

with the concurrence of the Republic of the Philippines, may authorize the Administrator to enter into contracts with the Veterans Memorial Medical Center to provide for payments for hospital care and medical services, and by including nursing home care, for eligible United States veterans as authorized by and on the same conditions as set forth in section 624, with such care to consist in whole or in part of available medicines, medical supplies, and equipment furnished through the revolving supply fund, pursuant to section 5021, at valuations determined by the Administrator using available appropriations for payments and with the per diem rate for such care and services to be jointly determined annually by the two Governments as fair and reasonable, second by increasing from $50,000 to $500,000 per year the size of grants to replace and upgrade equipment and rehabilitate the Center's physical plant, third by continuing the Administrator's authority to stop payments in certain cases, and fourth by limiting the Administrator's authority to contract for hospital care and to make grants for any fiscal year, to the extent that appropriations are available for that purpose.

1978—Subsec. (a). Pub. L. 95–520, § 3(b)(1), (2), substituted ''Veterans Memorial Medical Center'' for ''Veterans Memorial Hospital'' in introductory text and pars. (1), (2), (5), and (7), and in introductory text, substituted ''enter into contracts'' for ''enter into a contract'' and ''September 30, 1981'' for ''June 30, 1978''.

Subsec. (b). Pub. L. 95–520, § 3(b)(3), substituted ''October 1, 1981'' for ''July 1, 1978''.

Subsec. (c). Pub. L. 95–520, § 3(b)(1), substituted ''Veterans Memorial Medical Center'' for ''Veterans Memorial Hospital''.

Subsec. (d). Pub. L. 95–520, § 3(b)(1), (4), substituted ''Veterans Memorial Medical Center'' for ''Veterans Memorial Hospital'' in three places and ''occurring during the period beginning July 1, 1973, and ending September 30, 1981'' for ''during the five years beginning July 1, 1973, and ending June 30, 1978''.

1976—Subsec. (d). Pub. L. 94–581 substituted ''approval by the Administrator'' for ''approved by him''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section effective July 1, 1973, see section 501 of Pub. L. 93–82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

SAVINGS PROVISION

Section 107(c) of Pub. L. 93–82 provided that section 107(a) of Pub. L. 93–82, enacting this section and section 631 [now 1731] of this title, did not affect any right, cause, obligation, contract (including the contract executed Apr. 25, 1967, between the Government of the Republic of the Philippines and the Government of the United States resulting from Pub. L. 89–612, which was to remain in effect until modified or superseded by an agreement executed under authority of Pub. L. 93–82), authorization of appropriation, grant, function, power, or duty vested by law or otherwise under this section in effect on the day before Aug. 2, 1973.

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS IN CARRYING OUT THIS SECTION

Section 304(b) of Pub. L. 102–86 provided that: ''Any actions by the Secretary of Veterans Affairs in carrying out the provisions of section 632 [now 1732] of title 38, United States Code, by contract or otherwise, during the period beginning on October 1, 1990, and ending on the date of the enactment of this Act [Aug. 14, 1991] are hereby ratified.''

RATIFICATION OF ACTION OF ADMINISTRATOR IN CONTRACTING

Section 206(a)(2) of Pub. L. 99–576 ratified actions by the Administrator of Veterans' Affairs in contracting under subsec. (a) of this section with respect to the period beginning Oct. 1, 1986, and ending Oct. 28, 1986.

REPORTS ON USE OF FUNDS

Section 206(b) of Pub. L. 99–576 directed Administrator of Veterans' Affairs, not later than Feb. 1, 1987, 1988, and 1989, to submit to Congress a report describing use of funds provided to Republic of the Philippines under subsec. (b) of this section during the preceding fiscal year.

§ 1733. Supervision of program by the President

The President, or any officer of the United States to whom the President may delegate authority under this section, may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 633; Pub. L. 94–581, title II, § 210(a)(15), Oct. 21, 1976, 90 Stat. 2863; renumbered § 1733, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 1733 was renumbered section 3533 of this title.

Another prior section 1733, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1198, as amended by Pub. L. 91–219, title II, § 206(b), Mar. 26, 1970, 84 Stat. 82; Pub. L. 91–584, § 12, Dec. 24, 1970, 84 Stat. 1577, related to measurement of courses, prior to the general amendment of this section by Pub. L. 92–540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084. See section 3688 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 633 of this title as this section.

1976—Pub. L. 94–581 substituted ''the President'' for ''he'' and struck out ''his'' before ''authority''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EX. ORD. NO. 11762. DELEGATION OF AUTHORITY TO ADMINISTRATOR OF VETERANS' AFFAIRS RELATING TO GRANTS-IN-AID TO REPUBLIC OF THE PHILIPPINES FOR MEDICAL CARE AND TREATMENT OF VETERANS

Ex. Ord. No. 11762, Jan. 17, 1974, 39 F.R. 2347, provided:

By virtue of the authority vested in me by section 633 [now 1733] of title 38 and by section 301 of title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. (a) Subject to the provisions of subsections (b) and (c) of this section, the Administrator of Veterans' Affairs is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by sections 631, 632, 633, and 634 [now 1731, 1732, 1733, and 1734] of title 38 of the United States Code, as amended by section 107(a) of the Veterans Health Care Expansion Act of 1973 (Public Law 93–82; Stat. 184).

(b) The Secretary of State shall negotiate the agreement, and any modifications thereby with the Republic of the Philippines required by the provisions of sections 631, 632, 633, and 634 [now 1731, 1732, 1733, and 1734] of title 38 of the United States Code.

(c) All rules and regulations prescribed by the Administrator pursuant to the authority delegated to him by this order shall be subject to prior approval by the Director of the Office of Management and Budget.

SEC. 2. Nothing in this order shall be construed as modifying or terminating any other authority heretofore delegated by the President to the Administrator of Veterans' Affairs.

RICHARD NIXON.

§ 1734. Hospital and nursing home care and medical services in the United States

(a) The Secretary shall furnish hospital and nursing home care and medical services to any individual described in subsection (b) in the same manner, and subject to the same terms and conditions, as apply to the furnishing of such care and services to individuals who are veterans as defined in section 101(2) of this title. Any disability of an individual described in subsection (b) that is a service-connected disability for purposes of this subchapter (as provided for under section 1735(2) of this title) shall be considered to be a service-connected disability for purposes of furnishing care and services under the preceding sentence.

(b) Subsection (a) applies to any individual who is a Commonwealth Army veteran or new Philippine Scout and who—

(1) is residing in the United States; and

(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 96–22, title I, § 106(a), June 13, 1979, 93 Stat. 53, § 634; renumbered § 1734 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–377, § 1(a)(1) [title V, § 501(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–57; Pub. L. 108–170, title I, § 103, Dec. 6, 2003, 117 Stat. 2044.)

PRIOR PROVISIONS

Prior section 1734 was renumbered section 3534 of this title.

Another prior section 1734, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199, as amended by Pub. L. 89–358, § 4(m), Mar. 3, 1966, 80 Stat. 25, related to overcharging of eligible persons by educational institutions, prior to the general amendment of this section by Pub. L. 92–540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084. See section 3690 of this title.

AMENDMENTS

2003—Pub. L. 108–170 amended text generally. Prior to amendment, text read as follows:

''(a) The Secretary, within the limits of Department facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.

''(b) An individual who is in receipt of benefits under subchapter II or IV of chapter 11 of this title paid by reason of service described in section 107(a) of this title who is residing in the United States and who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States shall be eligible for hospital and nursing home care and medical services in the same manner as a veteran, and the disease or disability for which such benefits are paid shall be considered to be a service-connected disability for purposes of this chapter.''

2000—Pub. L. 106–377 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Pub. L. 102–83, § 5(a), renumbered section 634 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 107 of Pub. L. 96–22, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

§ 1735. Definitions

For the purposes of this subchapter—

(1) The term ''Commonwealth Army veterans'' means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable. The term ''new Philippine Scouts'' means persons who served in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(2) The term ''service-connected disabilities'' means disabilities determined by the Secretary under laws administered by the Secretary to have been incurred in or aggravated by the service described in paragraph (1) in line of duty.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 634; Pub. L. 89–612, § 3, Sept. 30, 1966, 80 Stat. 861; renumbered § 635, Pub. L. 96–22, title I, § 106(a), June 13, 1979, 93 Stat. 53; renumbered § 1735 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

REFERENCES IN TEXT

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in par. (1), is section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

PRIOR PROVISIONS

Prior sections 1735 and 1736 were renumbered sections 3535 and 3536 of this title, respectively.

Another prior section 1736, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 88–126, § 3, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89–358, § 4(*o*), Mar. 3, 1966, 80 Stat. 25, related to discontinuance of the educational assistance allowance by the Administrator, prior to repeal by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090. See section 3690 of this title.

Prior section 1737 was renumbered section 3537 of this title.

Another prior section 1737, added Pub. L. 93–508, title III, § 303(a), Dec. 3, 1974, 88 Stat. 1591; amended Pub. L. 97–35, title XX, § 2005(c), Aug. 13, 1981, 95 Stat. 783, related to entitlement of any eligible person, before Oct. 1, 1981, to an education loan, prior to repeal by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

Another prior section 1737 was renumbered section 1736 of this title.

Prior section 1738, added Pub. L. 95–202, title II, § 201(b), Nov. 23, 1977, 91 Stat. 1437, related to accelerated payment of educational assistance allowances, prior to repeal by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 635 of this title as this section.

Par. (2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''under''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1966—Par. (1). Pub. L. 89–612 inserted definition of ''new Philippine Scouts''.

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 1741. Criteria for payment

(a)(1) The Secretary shall pay each State at the per diem rate of—

(A) $8.70 for domiciliary care; and

(B) $20.35 for nursing home care and hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Department facility.

(2) The Secretary may pay each State per diem at a rate determined by the Secretary for each veteran receiving extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home, if such veteran is eligible for such care under laws administered by the Secretary.

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.

(c) Whenever the Secretary makes a determination pursuant to section 1720(a)(2)(A) of this title that the cost of care furnished by the Department in a general hospital under the direct jurisdiction of the Secretary has increased, the Secretary may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Secretary has determined that such cost of care has increased.

(d) Subject to section 1743 of this title, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section.

(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be used to offset or reduce any other payment made to assist veterans.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 641; Pub. L. 86–625, July 12, 1960, 74 Stat. 424; Pub. L. 87–819, § 1, Oct. 15, 1962, 76 Stat. 935; Pub. L. 88–450, § 3(a), Aug. 19, 1964, 78 Stat. 500; Pub. L. 90–432, § 1, July 26, 1968, 82 Stat. 448; Pub. L. 91–178, § 1, Dec. 30, 1969, 83 Stat. 836; Pub. L. 93–82, title IV, § 403(a), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94–417, § 1(a), Sept. 21, 1976, 90 Stat. 1277; Pub. L. 94–581, title II, § 202(*o*), Oct. 21, 1976, 90 Stat. 2856; Pub. L. 96–151, title I, § 101(b)(1), Dec. 20, 1979, 93 Stat. 1092; Pub. L. 98–160, title I, § 105(a), Nov. 21, 1983, 97 Stat. 998; Pub. L. 100–322, title I, § 134(a), May 20, 1988, 102 Stat. 507; renumbered § 1741 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–585, title IV, § 406, Nov. 4, 1992, 106 Stat. 4954; Pub. L. 104–66, title I, § 1141(a), Dec. 21, 1995, 109 Stat. 726; Pub. L. 104–262, title III, § 342(a), Oct. 9, 1996, 110 Stat. 3206; Pub. L. 106–117, title I, § 101(g), Nov. 30, 1999, 113 Stat. 1550; Pub. L. 108–422, title II, § 202, Nov. 30, 2004, 118 Stat. 2382.)

PRIOR PROVISIONS

Prior sections 1740 and 1741 were renumbered sections 3540 and 3541 of this title, respectively.

AMENDMENTS

2004—Subsec. (e). Pub. L. 108–422 added subsec. (e).

1999—Subsec. (a)(2). Pub. L. 106–117 substituted ''extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home'' for ''adult day health care in a State home''.

1996—Subsec. (a). Pub. L. 104–262 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

1995—Subsecs. (c) to (e). Pub. L. 104–66 redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which read as follows: ''The Secretary shall submit every three years to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the adequacy of the rates provided in subsection (a) of this section in light of projections over each of the following five years of the demand on the Department for the provision of nursing home care to veterans eligible for such care under this section and sections 1710 and 1720 of this title. The first such report shall be submitted not later than June 30, 1986.''

1992—Subsec. (e). Pub. L. 102–585 added subsec. (e).

1991—Pub. L. 102–83, § 5(a), renumbered section 641 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in concluding provisions.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1710 and 1720'' for ''610 and 620''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1720(a)(2)(A)'' for ''620(a)(2)(A)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1988—Subsec. (a). Pub. L. 100–322, § 134(a)(1), added cls. (1) and (2) and struck out former cls. (1) to (3) which read as follows:

''(1) $7.30 for domiciliary care,

''(2) $17.05 for nursing home care, and

''(3) $15.25 for hospital care,''.

Subsec. (d). Pub. L. 100–322, § 134(a)(2), added subsec. (d).

1983—Subsec. (a). Pub. L. 98–160, § 105(a)(1), substituted ''$7.30'' for ''$6.35'' in par. (1), ''$17.05'' for ''$12.10'' in par. (2), and ''$15.25'' for ''$13.25'' in par. (3).

Subsec. (c). Pub. L. 98–160, § 105(a)(2), added subsec. (c).

1979—Subsec. (a). Pub. L. 96–151 substituted ''$6.35'' for ''$5.50'', ''$12.10'' for ''$10.50'', and ''$13.25'' for ''$11.50''.

1976—Pub. L. 94–581 struck out ''of any war or of service after January 31, 1955'' after ''for each veteran'' in provisions following par. (3).

Pub. L. 94–417 designated existing provisions as subsec. (a), increased from $4.50 to $5.50 the per diem rate for domiciliary care, from $6 to $10.50 the per diem rate for nursing home care, and from $10 to $11.50 the per diem rate for hospital care, struck out ''of any war or of service after January 31, 1955'' after ''for each veteran'', '', in the case of such a veteran receiving domiciliary or hospital care,'' after ''if'', and provisions re-

lating to the case of a veteran receiving nursing home care, and added subsec. (b).

1973—Pub. L. 93–82 increased from $3.50 to $4.50 the per diem rate for domiciliary care, from $5 to $6 the per diem rate for nursing home care, and from $7.50 to $10 the per diem rate for hospital care, and substituted ''veteran of any war or of service after January 31, 1955'' for ''veteran of any war''.

1969—Pub. L. 91–178 increased from $3.50 to $7.50 the per diem payment for hospital care.

1968—Pub. L. 90–432 increased from $2.50 to $3.50 the per diem rate for hospital or domiciliary care and from $3.50 to $5.00 the per diem rate for nursing home care as the amounts the Administrator shall pay each State providing such services for veterans.

1964—Pub. L. 88–450 amended section generally and, among other changes, authorized payment at the per diem rate of $3.50 for each veteran receiving nursing care in a State home, if such veteran meets the requirements of paragraph (1), (2), or (3) of section 610(a) of this title, except that the requirement in clause (B) of such paragraph (1) shall, for this purpose, refer to the inability to defray the expenses of necessary nursing home care, and eliminated provisions which permitted reduction of the amount payable to the State homes under certain conditions and prohibited payments to State homes where a bar or canteen is maintained therein where intoxicating liquors are sold.

1962—Subsec. (b). Pub. L. 87–819 provided that no reduction shall be made by the retention or collection by a State home of amounts from the estate of a deceased veteran if such amounts are placed in a post or other special fund for the benefit of the State home or its inhabitants in providing the benefits enumerated in clauses (A) to (C).

1960—Subsec. (a). Pub. L. 86–625 substituted ''at the per diem rate of $2.50 per diem for each veteran'' for ''at the annual rate of $700.00 for each veteran''.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 134(b) of Pub. L. 100–322 provided that:

''(1) The amendment made by subsection (a)(1) [amending this section] shall take effect as of January 1, 1988.

''(2) The amendment made by subsection (a)(2) [amending this section] shall take effect on October 1, 1988.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 105(b) of Pub. L. 98–160 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on April 1, 1984.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 101(b)(2) of Pub. L. 96–151 provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 1980, but, with respect to fiscal year 1980, shall take effect only to such extent and in such amounts as may be specifically provided for such purpose in appropriation Acts.''

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

Section 1(c) of Pub. L. 94–417 provided that:

''(1) The amendments made by subsection (a) of this section [amending this section] shall be effective on October 1, 1976.

''(2) At the time of the first payment to a State under section 641 [now 1741] of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 [now 1741] for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(c) of Pub. L. 88–450 provided that: ''The amendment made by this section [amending this section] shall take effect on January 1, 1965; except that subsection (b) of section 641 [now 1741] of title 38, United States Code, as in effect immediately before such date, shall remain in effect with respect to any amounts retained or collected by any State home before such date.''

PAYMENTS TO STATES FOR NURSING HOME CARE

Section 3(b) of Pub. L. 88–450 provided that: ''No payment shall be made to any State home solely by reason of the amendment made by this section [amending this section] on account of nursing home care furnished any veteran except where such care is furnished the veteran by the State home for the first time after the effective date of this section [Jan. 1, 1965].''

§ 1742. Inspections of such homes; restrictions on beneficiaries

(a) The Secretary may inspect any State home at such times as the Secretary deems necessary. No payment or grant may be made to any home under this subchapter unless such home is determined by the Secretary to meet such standards as the Secretary shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 1720(b) of this title.

(b) The Secretary may ascertain the number of persons on account of whom payments may be made under this subchapter on account of any State home, but shall have no authority over the management or control of any State home.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 642; Pub. L. 94–581, title I, § 107(a), title II, § 210(a)(16), Oct. 21, 1976, 90 Stat. 2847, 2863; renumbered § 1742 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1742 was renumbered section 3542 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 642 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1720(b)'' for ''620(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1976—Subsec. (a). Pub. L. 94–581 substituted ''as the Administrator deems necessary'' for ''as he deems necessary'' in existing provisions and inserted provision that no payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1743. Applications

Payments on account of any veteran cared for in a State home shall be made under this subchapter only from the date the Secretary receives a request for determination of such veteran's eligibility; however, if such request is received by the Secretary within ten days after care of such veteran begins, payments shall be made on account of such veteran from the date care began.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1147, § 643; Pub. L. 97–251, § 7, Sept. 8, 1982, 96 Stat. 716; renumbered § 1743 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1743 was renumbered section 3543 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 643 of this title as this section and substituted ''Secretary'' for ''Administrator'' in two places.

1982—Pub. L. 97–251 struck out ''of any war'' after ''Payments on account of any veteran''.

§ 1744. Hiring and retention of nurses: payments to assist States

(a) PAYMENT PROGRAM.—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.

(b) ELIGIBLE RECIPIENTS.—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that fiscal year—

(1) receives per diem payments under this subchapter for that fiscal year; and

(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.

(c) USE OF FUNDS RECEIVED.—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

(d) LIMITATIONS ON AMOUNT OF PAYMENT.—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other employee incentive program for which the payment is made.

(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

(e) APPLICATIONS.—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other employee incentive program described in subsection (c) for which the payment is sought.

(f) SOURCE OF FUNDS.—Payments under this section shall be made from funds available for other payments under this subchapter.

(g) DISBURSEMENT.—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

(h) USE OF CERTAIN RECEIPTS.—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.

(i) ANNUAL REPORT FROM PAYMENT RECIPIENTS.—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous fiscal year in accordance with this subsection.

(j) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.

(Added Pub. L. 108–422, title II, § 201(a)(1), Nov. 30, 2004, 118 Stat. 2380.)

IMPLEMENTATION

Pub. L. 108–422, title II, § 201(b), Nov. 30, 2004, 118 Stat. 2382, provided that: ''The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than June 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final.''

SUBCHAPTER VI—SICKLE CELL ANEMIA

§ 1751. Screening, counseling, and medical treatment

The Secretary is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

(Added Pub. L. 93–82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 186, § 651; renumbered § 1751 and amended

Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 651 of this title as this section and substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Subchapter effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

§ 1752. Research

The Secretary is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

(Added Pub. L. 93–82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 186, § 652; renumbered § 1752 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 652 of this title as this section and substituted ''Secretary'' for ''Administrator''.

§ 1753. Voluntary participation; confidentiality

(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

(b) Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 7332 of this title.

(Added Pub. L. 93–82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 187, § 653; amended Pub. L. 94–581, title I, § 111(b), Oct. 21, 1976, 90 Stat. 2852; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1753, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 653 of this title as this section.

Subsec. (b). Pub. L. 102–40 substituted ''7332'' for ''4132''.

1976—Subsec. (b). Pub. L. 94–581 substituted ''Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title'' for ''The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 1754. Reports

The Secretary shall include in the annual report to the Congress required by section 529 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Secretary deems necessary.

(Added Pub. L. 93–82, title I, § 109(a), Aug. 2, 1973, 87 Stat. 187, § 654; renumbered § 1754 and amended Pub. L. 102–83, §§ 2(c)(3), 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 402, 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 654 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 2(c)(3), substituted ''section 529'' for ''section 214''.

[§§ 1761 to 1764. Repealed. Pub. L. 102–585, title V, § 514(a), Nov. 4, 1992, 106 Stat. 4958]

Section 1761, added Pub. L. 96–22, title I, § 105(a), June 13, 1979, 93 Stat. 52, § 661; amended Pub. L. 98–160, title I, § 106(b), Nov. 21, 1983, 97 Stat. 998; renumbered § 1761, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, related to purpose of this subchapter, which established a preventive health-care services pilot program.

Prior section 1761 was renumbered section 3561 of this title.

Section 1762, added Pub. L. 96–22, title I, § 105(a), June 13, 1979, 93 Stat. 52, § 662; renumbered § 1762 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–585, title V, § 513(a), Nov. 4, 1992, 106 Stat. 4958, defined the term ''preventive health-care services'' for purposes of this subchapter. Section 1762 of this title was transferred to section 1701(9) of this title by Pub. L. 102–585.

Prior section 1762 was renumbered section 3562 of this title.

Section 1763, added Pub. L. 96–22, title I, § 105(a), June 13, 1979, 93 Stat. 52, § 663; amended Pub. L. 96–128, title V, § 501(d), Nov. 28, 1979, 93 Stat. 987; Pub. L. 98–160, title I, § 106(c), Nov. 21, 1983, 97 Stat. 998; Pub. L. 99–272, title XIX, § 19011(d)(6), Apr. 7, 1986, 100 Stat. 379; renumbered § 1763 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406, related to provision of preventive health-care services under this subchapter.

Prior section 1763 was renumbered section 3563 of this title.

Another prior section 1763, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1201, provided for control by agencies of the United States, prior to repeal by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See section 3682 of this title.

Section 1764, added Pub. L. 96–22, title I, § 105(a), June 13, 1979, 93 Stat. 53, § 664; amended Pub. L. 98–160, title I, § 106(d), Nov. 21, 1983, 97 Stat. 999; renumbered § 1764 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406, directed Secretary to include comprehensive reports on administration of this subchapter in annual reports to Congress for fiscal years 1984 through 1988.

Prior section 1764, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1201, provided for dismissal for conflict of interest, prior to repeal by Pub. L. 89–358, §§ 3(a)(3), 12(a), Mar. 3, 1966, 80 Stat. 20, 28, effective Mar. 3, 1966. See section 3683 of this title.

Prior section 1765 was renumbered section 3565 of this title.

Another prior section 1765, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1202, provided for reports by institutions, prior to repeal by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See section 3684 of this title.

Prior section 1766 was renumbered section 3566 of this title.

Another prior section 1766, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1202, related to overpayments to eligible persons, prior to repeal by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20. See section 3685 of this title.

Prior section 1767, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1202, related to examination of records, prior to repeal by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20.

Prior section 1768, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1202, related to false or misleading statements, prior to repeal by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20.

A prior section 1770 was renumbered section 3670 of this title.

[SUBCHAPTER VII—TRANSFERRED]

[§§ 1771 to 1774. Renumbered §§ 2031 to 2034]

CODIFICATION

Former subchapter VII of chapter 17, which consisted of sections 1771 to 1774, was renumbered subchapter IV of chapter 20 of this title and transferred to follow section 2023 of this title, and sections 1771 to 1774 were renumbered sections 2031 to 2034 of this title, respectively.

A prior subchapter VII of this chapter, consisting of sections 1761 to 1764 of this title, related to preventive health care services pilot program, prior to repeal by Pub. L. 102–585, title V, § 514(a), Nov. 4, 1992, 106 Stat. 4958.

Other prior sections 1771 to 1774 were renumbered sections 3671 to 3674 of this title, respectively.

Prior sections 1775 to 1777 were renumbered sections 3675 to 3677 of this title, respectively.

Another prior section 1777 was renumbered section 1778 of this title.

Prior section 1778 was renumbered section 3678 of this title.

Another prior section 1778 was renumbered section 1779 of this title.

Prior sections 1779 and 1780 were renumbered sections 3679 and 3680 of this title, respectively.

SUBCHAPTER VIII—HEALTH CARE OF PERSONS OTHER THAN VETERANS

§ 1781. Medical care for survivors and dependents of certain veterans

(a) The Secretary is authorized to provide medical care, in accordance with the provisions of subsection (b) of this section, for—

(1) the spouse or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability,

(2) the surviving spouse or child of a veteran who (A) died as a result of a service-connected disability, or (B) at the time of death had a total disability permanent in nature, resulting from a service-connected disability, and

(3) the surviving spouse or child of a person who died in the active military, naval, or air service in the line of duty and not due to such person's own misconduct,

who are not otherwise eligible for medical care under chapter 55 of title 10 (CHAMPUS).

(b) In order to accomplish the purposes of subsection (a) of this section, the Secretary shall provide for medical care in the same or similar manner and subject to the same or similar limitations as medical care is furnished to certain dependents and survivors of active duty and retired members of the Armed Forces under chapter 55 of title 10 (CHAMPUS), by—

(1) entering into an agreement with the Secretary of Defense under which that Secretary shall include coverage for such medical care under the contract, or contracts, that Secretary enters into to carry out such chapter 55, and under which the Secretary of Veterans Affairs shall fully reimburse the Secretary of Defense for all costs and expenditures made for the purposes of affording the medical care authorized pursuant to this section; or

(2) contracting in accordance with such regulations as the Secretary shall prescribe for such insurance, medical service, or health plans as the Secretary deems appropriate.

In cases in which Department medical facilities are equipped to provide the care and treatment, the Secretary is also authorized to carry out such purposes through the use of such facilities not being utilized for the care of eligible veterans. A dependent or survivor receiving care under the preceding sentence shall be eligible for the same medical services as a veteran, including services under sections 1782 and 1783 of this title.

(c) For the purposes of this section, a child between the ages of eighteen and twenty-three (1) who is eligible for benefits under subsection (a) of this section, (2) who is pursuing a full-time course of instruction at an educational institution approved under chapter 36 of this title, and (3) who, while pursuing such course of instruction, incurs a disabling illness or injury (including a disabling illness or injury incurred between terms, semesters, or quarters or during a vacation or holiday period) which is not the result of such child's own willful misconduct and which results in such child's inability to continue or resume such child's chosen program of education at an approved educational institution shall remain eligible for benefits under this section until the end of the six-month period beginning on the date the disability is removed, the end of the two-year period beginning on the date of the onset of the disability, or the twenty-third birthday of the child, whichever occurs first.

(d)(1)(A) An individual otherwise eligible for medical care under this section who is also entitled to hospital insurance benefits under part A of the medicare program is eligible for medical care under this section only if the individual is also enrolled in the supplementary medical insurance program under part B of the medicare program.

(B) The limitation in subparagraph (A) does not apply to an individual who—

(i) has attained 65 years of age as of June 5, 2001; and

(ii) is not enrolled in the supplementary medical insurance program under part B of the medicare program as of that date.

(2) Subject to paragraph (3), if an individual described in paragraph (1) receives medical care for which payment may be made under both this section and the medicare program, the amount payable for such medical care under this section shall be the amount by which (A) the costs for such medical care exceed (B) the sum of—

(i) the amount payable for such medical care under the medicare program; and

(ii) the total amount paid or payable for such medical care by third party payers other than the medicare program.

(3) The amount payable under this subsection for medical care may not exceed the total

amount that would be paid under subsection (b) if payment for such medical care were made solely under subsection (b).

(4) In this subsection:

(A) The term ''medicare program'' means the program of health insurance administered by the Secretary of Health and Human Services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(B) The term ''third party'' has the meaning given that term in section 1729(i)(3) of this title.

(Added Pub. L. 93–82, title I, § 103(b), Aug. 2, 1973, 87 Stat. 181, § 613; amended Pub. L. 94–581, title I, § 104, title II, § 210(a)(4), Oct. 21, 1976, 90 Stat. 2845, 2862; Pub. L. 96–151, title II, § 205(a), Dec. 20, 1979, 93 Stat. 1094; Pub. L. 97–72, title I, § 105, Nov. 3, 1981, 95 Stat. 1050; Pub. L. 97–251, § 5(a), Sept. 8, 1982, 96 Stat. 716; renumbered § 1713 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(B), (E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–190, div. A, title VII, § 704(b)(2), Dec. 5, 1991, 105 Stat. 1402; Pub. L. 107–14, § 3, June 5, 2001, 115 Stat. 25; renumbered § 1781 and amended Pub. L. 107–135, title II, § 208(c), Jan. 23, 2002, 115 Stat. 2463; Pub. L. 107–330, title III, § 308(g)(8), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(4)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1781 was renumbered section 3681 of this title.

AMENDMENTS

2002—Pub. L. 107–135, § 208(c)(1), (2), renumbered section 1713 of this title as this section.

Subsec. (b). Pub. L. 107–135, § 208(c)(3), inserted at end ''A dependent or survivor receiving care under the preceding sentence shall be eligible for the same medical services as a veteran, including services under sections 1782 and 1783 of this title.''

Subsec. (d)(1)(B)(i). Pub. L. 107–330, § 308(g)(8)(A), substituted ''as of June 5, 2001'' for ''as of the date of the enactment of the Veterans' Survivor Benefits Improvements Act of 2001''.

Subsec. (d)(4). Pub. L. 107–330, § 308(g)(8)(B), substituted ''subsection'' for ''paragraph'' in introductory provisions.

2001—Subsec. (d). Pub. L. 107–14 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Notwithstanding section 1086(d)(1) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after losing eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits.''

1991—Pub. L. 102–83, § 5(a), renumbered section 613 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (b). Pub. L. 102–83, § 4(b)(2)(B), substituted ''that Secretary'' for second and third references to ''the Secretary'' and ''the Secretary of Defense'' for last reference to ''the Secretary'' in par. (1).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing in introductory and concluding provisions and in par. (2).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in concluding provisions.

Subsec. (d). Pub. L. 102–190 substituted ''section 1086(d)(1)'' for ''the second sentence of section 1086(c)''.

1982—Subsec. (d). Pub. L. 97–251 added subsec. (d).

1981—Subsec. (b). Pub. L. 97–72 substituted ''equipped to provide the care and treatment'' for ''particularly equipped to provide the most effective care and treatment'' in provisions following par. (2).

1979—Subsec. (a). Pub. L. 96–151, § 205(a)(1), in cl. (1) substituted reference to spouse for reference to wife, in cl. (2) substituted reference to surviving spouse for reference to widow, and added cl. (3).

Subsec. (c). Pub. L. 96–151, § 205(a)(2), added subsec. (c).

1976—Subsec. (a)(2). Pub. L. 94–581, § 104, designated existing provisions as cl. (A) and added cl. (B).

Subsec. (b)(1). Pub. L. 94–581, § 210(a)(4)(A), substituted ''the Secretary enters'' for ''he enters''.

Subsec. (b)(2). Pub. L. 94–581, § 210(a)(4)(B), substituted ''the Administrator'' for ''he'' in two places.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 5(b) of Pub. L. 97–251 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1982.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 205(b) of Pub. L. 96–151 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect with respect to fiscal year 1980 only to such extent and for such amounts as may be specifically provided for such purpose in appropriation Acts.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

§ 1782. Counseling, training, and mental health services for immediate family members

(a) COUNSELING FOR FAMILY MEMBERS OF VETERANS RECEIVING SERVICE-CONNECTED TREATMENT.—In the case of a veteran who is receiving treatment for a service-connected disability pursuant to paragraph (1) or (2) of section 1710(a) of this title, the Secretary shall provide to individuals described in subsection (c) such consultation, professional counseling, training, and mental health services as are necessary in connection with that treatment.

(b) COUNSELING FOR FAMILY MEMBERS OF VETERANS RECEIVING NON-SERVICE-CONNECTED TREATMENT.—In the case of a veteran who is eligible to receive treatment for a non-service-connected disability under the conditions described in paragraph (1), (2), or (3) of section 1710(a) of this title, the Secretary may, in the discretion of the Secretary, provide to individuals described in subsection (c) such consultation, professional counseling, training, and mental health services as are necessary in connection with that treatment if—

(1) those services were initiated during the veteran's hospitalization; and

(2) the continued provision of those services on an outpatient basis is essential to permit the discharge of the veteran from the hospital.

(c) ELIGIBLE INDIVIDUALS.—Individuals who may be provided services under this subsection are—

(1) the members of the immediate family or the legal guardian of a veteran; or

(2) the individual in whose household such veteran certifies an intention to live.

(d) TRAVEL AND TRANSPORTATION AUTHORIZED.—Services provided under subsections (a) and (b) may include, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of individuals described in subsection (c) in the case of any of the following:

(1) A veteran who is receiving care for a service-connected disability.

(2) A dependent or survivor receiving care under the last sentence of section 1783(b) of this title.

(Added Pub. L. 107–135, title II, § 208(b), Jan. 23, 2002, 115 Stat. 2462.)

PRIOR PROVISIONS

A prior section 1782 was renumbered section 3682 of this title.

§ 1783. Bereavement counseling

(a) DEATHS OF VETERANS.—In the case of an individual who was a recipient of services under section 1782 of this title at the time of the death of the veteran, the Secretary may provide bereavement counseling to that individual in the case of a death—

(1) that was unexpected; or

(2) that occurred while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary.

(b) DEATHS IN ACTIVE SERVICE.—The Secretary may provide bereavement counseling to an individual who is a member of the immediate family of a member of the Armed Forces who dies in the active military, naval, or air service in the line of duty and under circumstances not due to the person's own misconduct.

(c) BEREAVEMENT COUNSELING DEFINED.—For purposes of this section, the term ''bereavement counseling'' means such counseling services, for a limited period, as the Secretary determines to be reasonable and necessary to assist an individual with the emotional and psychological stress accompanying the death of another individual.

(Added Pub. L. 107–135, title II, § 208(b), Jan. 23, 2002, 115 Stat. 2463.)

PRIOR PROVISIONS

A prior section 1783 was renumbered section 3683 of this title.

§ 1784. Humanitarian care

The Secretary may furnish hospital care or medical services as a humanitarian service in emergency cases, but the Secretary shall charge for such care and services at rates prescribed by the Secretary.

(Added Pub. L. 107–135, title II, § 208(b), Jan. 23, 2002, 115 Stat. 2463.)

PRIOR PROVISIONS

Prior section 1784 was renumbered section 3684 of this title.

§ 1785. Care and services during certain disasters and emergencies

(a) AUTHORITY TO PROVIDE HOSPITAL CARE AND MEDICAL SERVICES.—During and immediately following a disaster or emergency referred to in subsection (b), the Secretary may furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by that disaster or emergency.

(b) COVERED DISASTERS AND EMERGENCIES.—A disaster or emergency referred to in this subsection is any disaster or emergency as follows:

(1) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

(c) APPLICABILITY TO ELIGIBLE INDIVIDUALS WHO ARE VETERANS.—The Secretary may furnish care and services under this section to an individual described in subsection (a) who is a veteran without regard to whether that individual is enrolled in the system of patient enrollment under section 1705 of this title.

(d) REIMBURSEMENT FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.—(1) The cost of any care or services furnished under this section to an officer or employee of a department or agency of the United States other than the Department or to a member of the Armed Forces shall be reimbursed at such rates as may be agreed upon by the Secretary and the head of such department or agency or the Secretary concerned, in the case of a member of the Armed Forces, based on the cost of the care or service furnished.

(2) Amounts received by the Department under this subsection shall be credited to the Medical Care Collections Fund under section 1729A of this title.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Within 60 days of the commencement of a disaster or emergency referred to in subsection (b) in which the Secretary furnishes care and services under this section (or as soon thereafter as is practicable), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the Secretary's allocation of facilities and personnel in order to furnish such care and services.

(f) REGULATIONS.—The Secretary shall prescribe regulations governing the exercise of the authority of the Secretary under this section.

(Added Pub. L. 107–287, § 4(a)(1), Nov. 7, 2002, 116 Stat. 2028.)

REFERENCES IN TEXT

The Robert B. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (b)(1), prob-

ably means the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

PRIOR PROVISIONS

Prior sections 1785 and 1786 were renumbered sections 3685 and 3686 of this title, respectively.

Another prior section 1786, added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23, related to the examination of records, prior to repeal by section 316(1) of Pub. L. 92–540. See section 3690 of this title.

Prior section 1787 was renumbered section 3687 of this title.

Another prior section 1787, added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23, related to the submission of false or misleading statements by educational institutions, persons or veterans, prior to repeal by section 316(1) of Pub. L. 92–540. See section 3690 of this title.

Prior section 1788 was renumbered section 3688 of this title.

Another prior section 1788 was renumbered section 3692 of this title.

Prior section 1789 was renumbered section 3689 of this title.

Another prior section 1789, which required the Administrator not to approve of enrollments in courses in institutions listed by the Attorney General under section 12 of Ex. Ord. No. 10450, was renumbered section 1793 of this title.

Prior section 1790 was renumbered section 3690 of this title.

Another prior section 1790 was renumbered section 3694 of this title.

Prior section 1791 was renumbered section 3691 of this title.

Another prior section 1791 was renumbered section 3695 of this title.

Prior sections 1792 and 1793 were renumbered sections 3692 and 3693 of this title, respectively.

Another prior section 1793, added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23, § 1789; amended Pub. L. 91–24, § 15, June 11, 1969, 83 Stat. 35; renumbered and amended Pub. L. 92–540, title III, § 316(2), title IV, § 403(12), Oct. 24, 1972, 86 Stat. 1086, 1090, required that the Administrator not to approve of enrollment in any course in an institution listed by the Attorney General under section 12 of Executive Order 10450, prior to repeal by section 511(1) of Pub. L. 94–502.

Prior sections 1794 to 1799 were renumbered sections 3694 to 3699 of this title, respectively, and sections 3698 and 3699 were subsequently repealed.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(5), 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.

CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS

Sec.
[1801. Repealed.]

SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA

1802. Spina bifida conditions covered.
1803. Health care.
1804. Vocational training and rehabilitation.
1805. Monetary allowance.
[1806. Repealed.]

SUBCHAPTER II—CHILDREN OF WOMEN VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

1811. Definitions.
1812. Covered birth defects.
1813. Health care.
1814. Vocational training.
1815. Monetary allowance.
1816. Regulations.

SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

1821. Benefits for children of certain Korea service veterans born with spina bifida.

SUBCHAPTER IV—GENERAL PROVISIONS

1831. Definitions.
1832. Applicability of certain administrative provisions.
1833. Treatment of receipt of monetary allowance and other benefits.
1834. Nonduplication of benefits.

AMENDMENTS

2003—Pub. L. 108–183, § 102(d)(2), (e)(1), Dec. 16, 2003, 117 Stat. 2654, substituted ''BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS'' for ''BENEFITS FOR CHILDREN OF VIETNAM VETERANS'' in chapter heading, added item for subchapter III and item 1821, and redesignated former item for subchapter III and items 1821 to 1824 as item for subchapter IV and items 1831 to 1834, respectively.

2000—Pub. L. 106–419, title IV, § 401(f)(1), (3), Nov. 1, 2000, 114 Stat. 1860, 1861, substituted ''BENEFITS FOR CHILDREN OF VIETNAM VETERANS'' for ''BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA'' in chapter heading, added item for subchapter I, struck out items 1801 ''Definitions'' and 1806 ''Applicability of certain administrative provisions'', added item for subchapter II and items 1811 to 1816, and added item for subchapter III and items 1821 to 1824.

1997—Pub. L. 105–114, title IV, § 404(b)(2), Nov. 21, 1997, 111 Stat. 2295, substituted ''Applicability of certain administrative provisions'' for ''Effective date of awards'' in item 1806.

[§ 1801. Repealed. Pub. L. 106–419, title IV, § 401(c)(1), Nov. 1, 2000, 114 Stat. 1860]

Section, added Pub. L. 104–204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2923; amended Pub. L. 105–114, title IV, § 404(a), Nov. 21, 1997, 111 Stat. 2294, defined ''child'' and ''Vietnam veteran''.

A prior section 1801 was renumbered section 3701 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106–419, set out as an Effective Date note under section 1811 of this title.

EFFECTIVE DATE

Chapter effective Oct. 1, 1997, notwithstanding section 421(d) of Pub. L. 104–204, set out below, unless legislation other than Pub. L. 104–204 is enacted providing for an earlier effective date, see section 422(c) of Pub. L. 104–204, set out as an Effective Date of 1996 Amendment note under section 1151 of this title.

Section 421(d) of Pub. L. 104–204 provided that: ''This section [enacting this chapter and amending section 5312 of this title] and the amendments made by this section shall take effect on January 1, 1997.''

CONGRESSIONAL PURPOSE

Section 421(a) of Pub. L. 104–204 provided that: ''The purpose of this section [enacting this chapter and amending section 5312 of this title] is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits.''

SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA

§ 1802. Spina bifida conditions covered

This subchapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

(Added Pub. L. 104–204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2923; amended Pub. L. 106–419, title IV, § 401(e)(1), Nov. 1, 2000, 114 Stat. 1860; Pub. L. 107–14, § 8(b)(3), June 5, 2001, 115 Stat. 36.)

PRIOR PROVISIONS

A prior section 1802 was renumbered section 3702 of this title.

AMENDMENTS

2001—Pub. L. 107–14 made technical amendment to directory language of Pub. L. 106–419. See 2000 Amendment note below.

2000—Pub. L. 106–419, as amended by Pub. L. 107–14, substituted ''This subchapter'' for ''This chapter''.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–14, § 8(b), June 5, 2001, 115 Stat. 36, provided that the amendment made by section 8(b) is effective Nov. 1, 2000, and as if included in the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106–419, as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106–419, set out as an Effective Date note under section 1811 of this title.

§ 1803. Health care

(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition.

(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

(c) For the purposes of this section—

(1) The term ''health care''—

(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and

(B) includes—

(i) the training of appropriate members of a child's family or household in the care of the child; and

(ii) the provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

(2) The term ''health care provider'' includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual furnishing health care services that the Secretary determines are authorized under this section.

(3) The term ''home care'' means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

(4) The term ''hospital care'' means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

(5) The term ''nursing home care'' means care and treatment for a disability furnished to an individual who has been admitted to a nursing home as a resident.

(6) The term ''outpatient care'' means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

(7) The term ''preventive care'' means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

(8) The term ''habilitative and rehabilitative care'' means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

(9) The term ''respite care'' means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

(Added Pub. L. 104–204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2923; amended Pub. L. 105–368, title X, § 1005(b)(4), Nov. 11, 1998, 112 Stat. 3365.)

PRIOR PROVISIONS

A prior section 1803 was renumbered section 3703 of this title.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105–368 substituted ''furnishing health care services that the Secretary determines are authorized'' for ''who furnishes health care that the Secretary determines authorized''.

§ 1804. Vocational training and rehabilitation

(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

(b) Any program of vocational training for a child under this section shall—

(1) be designed in consultation with the child in order to meet the child's individual needs;

(2) be set forth in an individualized written plan of vocational rehabilitation; and

(3) be designed and developed before the date specified in subsection (d)(3) so as to permit the beginning of the program as of the date specified in that subsection.

(c)(1) A vocational training program for a child under this section—

(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

(B) may include a program of education at an institution of higher learning if the Secretary determines that the program of education is predominantly vocational in content.

(2) A vocational training program under this section may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

(2) The Secretary may grant an extension of a vocational training program for a child under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

(3) A vocational training program under this section may begin on the child's 18th birthday, or on the successful completion of the child's secondary schooling, whichever first occurs, except that, if the child is above the age of compulsory school attendance under applicable State law and the Secretary determines that the child's best interests will be served thereby, the vocational training program may begin before the child's 18th birthday.

(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

(Added Pub. L. 104–204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2924; amended Pub. L. 105–114, title IV, § 404(c), Nov. 21, 1997, 111 Stat. 2295; Pub. L. 108–183, title VII, § 708(a)(3), Dec. 16, 2003, 117 Stat. 2673.)

PRIOR PROVISIONS

A prior section 1804 was renumbered section 3704 of this title.

AMENDMENTS

2003—Subsec. (c)(2). Pub. L. 108–183 substituted ''section'' for ''subsection''.

1997—Subsec. (b). Pub. L. 105–114, § 404(c)(1), substituted ''shall—'' for ''shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation.'' and added pars. (1) to (3).

Subsec. (c)(1)(B). Pub. L. 105–114, § 404(c)(2), substituted ''higher learning'' for ''higher education''.

Subsec. (d)(3). Pub. L. 105–114, § 404(c)(3), added par. (3).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 404(d) of Pub. L. 105–114 provided that: ''The amendments made by this section [amending this section and sections 1801 and 1806 of this title] shall take effect as of October 1, 1997.''

§ 1805. Monetary allowance

(a) The Secretary shall pay a monthly allowance under this section to any child of a Vietnam veteran for any disability resulting from spina bifida suffered by such child.

(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

(3) The amounts of the allowance shall be $200 per month for the lowest level of disability prescribed, $700 per month for the intermediate level of disability prescribed, and $1,200 per month for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

(Added Pub. L. 104–204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2925; amended Pub. L. 106–419, title IV, § 401(c)(2), (e)(2), Nov. 1, 2000, 114 Stat. 1860.)

PRIOR PROVISIONS

A prior section 1805 was renumbered section 3705 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–419, § 401(e)(2), substituted ''this section'' for ''this chapter''.

Subsecs. (c), (d). Pub. L. 106–419, § 401(c)(2), struck out subsecs. (c) and (d) which read as follows:

''(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child's relationship to the individual.

''(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective on the first day of the first month beginning more than one year

after Nov. 1, 2000, see section 401(g) of Pub. L. 106–419, set out as an Effective Date note under section 1811 of this title.

[§ 1806. Repealed. Pub. L. 106–419, title IV, § 401(c)(3), Nov. 1, 2000, 114 Stat. 1860]

Section, added Pub. L. 104–204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2926; amended Pub. L. 105–114, title IV, § 404(b)(1), Nov. 21, 1997, 111 Stat. 2294, related to applicability of certain administrative provisions.

Prior section 1806 was renumbered section 3706 of this title.

Prior section 1807, added Pub. L. 94–324, § 2(a), June 30, 1976, 90 Stat. 720; amended Pub. L. 97–72, title III, § 303(d), Nov. 3, 1981, 95 Stat. 1060, related to service after July 25, 1947, and prior to June 27, 1950, prior to repeal by Pub. L. 100–322, title IV, § 415(a)(4), May 20, 1988, 102 Stat. 550.

Prior section 1810 was renumbered section 3710 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106–419, set out as an Effective Date note under section 1811 of this title.

SUBCHAPTER II—CHILDREN OF WOMEN VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

§ 1811. Definitions

In this subchapter:

(1) The term ''eligible child'' means an individual who—

(A) is the child (as defined in section 1831(1) of this title) of a woman Vietnam veteran; and

(B) was born with one or more covered birth defects.

(2) The term ''covered birth defect'' means a birth defect identified by the Secretary under section 1812 of this title.

(Added Pub. L. 106–419, title IV, § 401(a), Nov. 1, 2000, 114 Stat. 1857; amended Pub. L. 108–183, title I, § 102(d)(1), Dec. 16, 2003, 117 Stat. 2654.)

PRIOR PROVISIONS

A prior section 1811 was renumbered section 3711 of this title.

AMENDMENTS

2003—Par. (1)(A). Pub. L. 108–183 substituted ''section 1831(1)'' for ''section 1821(1)''.

EFFECTIVE DATE

Pub. L. 106–419, title IV, § 401(g), Nov. 1, 2000, 114 Stat. 1861, provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [enacting this subchapter and subchapter III of this chapter, amending sections 1802 and 1805 of this title, and repealing sections 1801 and 1806 of this title] shall take effect on the first day of the first month beginning more than one year after the date of the enactment of this Act [Nov. 1, 2000].

''(2) The Secretary of Veterans Affairs shall identify birth defects under section 1812 of title 38, United States Code (as added by subsection (a) of this section), and shall prescribe the regulations required by subchapter II of chapter 18 of that title (as so added), not later than the effective date specified in paragraph (1).''

§ 1812. Covered birth defects

(a) IDENTIFICATION.—The Secretary shall identify the birth defects of children of women Vietnam veterans that—

(1) are associated with the service of those veterans in the Republic of Vietnam during the Vietnam era; and

(2) result in permanent physical or mental disability.

(b) LIMITATIONS.—(1) The birth defects identified under subsection (a) may not include birth defects resulting from the following:

(A) A familial disorder.

(B) A birth-related injury.

(C) A fetal or neonatal infirmity with well-established causes.

(2) In any case where affirmative evidence establishes that a covered birth defect of a child of a woman Vietnam veteran results from a cause other than the active military, naval, or air service of that veteran in the Republic of Vietnam during the Vietnam era, no benefits or assistance may be provided the child under this subchapter.

(Added Pub. L. 106–419, title IV, § 401(a), Nov. 1, 2000, 114 Stat. 1857.)

PRIOR PROVISIONS

A prior section 1812 was renumbered section 3712 of this title.

Another prior section 1812, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1210, automatically guaranteed loans made to a veteran if made for the purpose of purchasing farms and farm equipment, prior to repeal by Pub. L. 93–569, § 7(a), Dec. 31, 1974, 88 Stat. 1866.

§ 1813. Health care

(a) NEEDED CARE.—The Secretary shall provide an eligible child such health care as the Secretary determines is needed by the child for that child's covered birth defects or any disability that is associated with those birth defects.

(b) AUTHORITY FOR CARE TO BE PROVIDED DIRECTLY OR BY CONTRACT.—The Secretary may provide health care under this section directly or by contract or other arrangement with a health care provider.

(c) DEFINITIONS.—For purposes of this section, the definitions in section 1803(c) of this title shall apply with respect to the provision of health care under this section, except that for such purposes—

(1) the reference to ''specialized spina bifida clinic'' in paragraph (2) of that section shall be treated as a reference to a specialized clinic treating the birth defect concerned under this section; and

(2) the reference to ''vocational training under section 1804 of this title'' in paragraph (8) of that section shall be treated as a reference to vocational training under section 1814 of this title.

(Added Pub. L. 106–419, title IV, § 401(a), Nov. 1, 2000, 114 Stat. 1857.)

PRIOR PROVISIONS

A prior section 1813 was renumbered section 3713 of this title.

Another prior section 1813, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1211, automatically guaranteed loans made to a veteran if made for the purpose of purchasing business property, prior to repeal by Pub. L. 93–569, § 7(a), Dec. 31, 1974, 88 Stat. 1866.

§ 1814. Vocational training

(a) AUTHORITY.—The Secretary may provide a program of vocational training to an eligible

child if the Secretary determines that the achievement of a vocational goal by the child is reasonably feasible.

(b) APPLICABLE PROVISIONS.—Subsections (b) through (e) of section 1804 of this title shall apply with respect to any program of vocational training provided under subsection (a).

(Added Pub. L. 106–419, title IV, § 401(a), Nov. 1, 2000, 114 Stat. 1858.)

PRIOR PROVISIONS

A prior section 1814 was renumbered section 3714 of this title.

Another prior section 1814, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1211, Pub. L. 86–665, § 3, July 14, 1960, 74 Stat. 531; Pub. L. 87–84, § 1(c), July 6, 1961, 75 Stat. 201, automatically guaranteed loans made to a veteran if made for the purpose of refinancing delinquent indebtedness, prior to repeal by Pub. L. 93–569, § 7(a), Dec. 31, 1974, 88 Stat. 1866.

§ 1815. Monetary allowance

(a) MONETARY ALLOWANCE.—The Secretary shall pay a monthly allowance to any eligible child for any disability resulting from the covered birth defects of that child.

(b) SCHEDULE FOR RATING DISABILITIES.—(1) The amount of the monthly allowance paid under this section shall be based on the degree of disability suffered by the child concerned, as determined in accordance with a schedule for rating disabilities resulting from covered birth defects that is prescribed by the Secretary.

(2) In prescribing a schedule for rating disabilities for the purposes of this section, the Secretary shall establish four levels of disability upon which the amount of the allowance provided by this section shall be based. The levels of disability established may take into account functional limitations, including limitations on cognition, communication, motor abilities, activities of daily living, and employability.

(c) AMOUNT OF MONTHLY ALLOWANCE.—The amount of the monthly allowance paid under this section shall be as follows:

(1) In the case of a child suffering from the lowest level of disability prescribed in the schedule for rating disabilities under subsection (b), $100.

(2) In the case of a child suffering from the lower intermediate level of disability prescribed in the schedule for rating disabilities under subsection (b), the greater of—

(A) $214; or

(B) the monthly amount payable under section 1805(b)(3) of this title for the lowest level of disability prescribed for purposes of that section.

(3) In the case of a child suffering from the higher intermediate level of disability prescribed in the schedule for rating disabilities under subsection (b), the greater of—

(A) $743; or

(B) the monthly amount payable under section 1805(b)(3) of this title for the intermediate level of disability prescribed for purposes of that section.

(4) In the case of a child suffering from the highest level of disability prescribed in the schedule for rating disabilities under subsection (b), the greater of—

(A) $1,272; or

(B) the monthly amount payable under section 1805(b)(3) of this title for the highest level of disability prescribed for purposes of that section.

(d) INDEXING TO SOCIAL SECURITY BENEFIT INCREASES.—Amounts under paragraphs (1), (2)(A), (3)(A), and (4)(A) of subsection (c) shall be subject to adjustment from time to time under section 5312 of this title.

(Added Pub. L. 106–419, title IV, § 401(a), Nov. 1, 2000, 114 Stat. 1858.)

PRIOR PROVISIONS

A prior section 1815 was renumbered section 3703(a)(2) of this title.

§ 1816. Regulations

The Secretary shall prescribe regulations for purposes of the administration of this subchapter.

(Added Pub. L. 106–419, title IV, § 401(a), Nov. 1, 2000, 114 Stat. 1859.)

PRIOR PROVISIONS

A prior section 1816 was renumbered sections 3732 and 3733 of this title.

Prior sections 1817 and 1817A were renumbered sections 3713 and 3714 of this title, respectively.

A prior section 1818, added Pub. L. 89–358, § 5(a), Mar. 3, 1966, 80 Stat. 25; amended Pub. L. 91–506, § 2(e), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93–569, § 8(6), (7), Dec. 31, 1974, 88 Stat. 1866, 1867; Pub. L. 94–324, § 4, June 30, 1976, 90 Stat. 720; Pub. L. 95–476, title I, § 106(a), Oct. 18, 1978, 92 Stat. 1499; Pub. L. 97–72, title III, § 303(g), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97–295, § 4(66), Oct. 12, 1982, 96 Stat. 1310, related to service after Jan. 31, 1955, and prior to Aug. 5, 1964, or after May 7, 1975, prior to repeal by Pub. L. 100–322, title IV, § 415(b)(3), May 20, 1988, 102 Stat. 551.

A prior section 1819 was renumbered section 3712 of this title.

A prior section 1820 was renumbered section 3720 of this title.

SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

PRIOR PROVISIONS

A prior subchapter III of this chapter, consisting of former sections 1821 to 1824, was redesignated subchapter IV of this chapter.

§ 1821. Benefits for children of certain Korea service veterans born with spina bifida

(a) BENEFITS AUTHORIZED.—The Secretary may provide to any child of a veteran of covered service in Korea who is suffering from spina bifida the health care, vocational training and rehabilitation, and monetary allowance required to be paid to a child of a Vietnam veteran who is suffering from spina bifida under subchapter I of this chapter as if such child of a veteran of covered service in Korea were a child of a Vietnam veteran who is suffering from spina bifida under such subchapter.

(b) SPINA BIFIDA CONDITIONS COVERED.—This section applies with respect to all forms and manifestations of spina bifida, except spina bifida occulta.

(c) VETERAN OF COVERED SERVICE IN KOREA.—For purposes of this section, a veteran of cov-

ered service in Korea is any individual, without regard to the characterization of that individual's service, who—

(1) served in the active military, naval, or air service in or near the Korean demilitarized zone (DMZ), as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on September 1, 1967, and ending on August 31, 1971; and

(2) is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in or near the Korean demilitarized zone.

(d) HERBICIDE AGENT.—For purposes of this section, the term ''herbicide agent'' means a chemical in a herbicide used in support of United States and allied military operations in or near the Korean demilitarized zone, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on September 1, 1967, and ending on August 31, 1971.

(Added Pub. L. 108–183, title I, § 102(a)(2), Dec. 16, 2003, 117 Stat. 2653.)

PRIOR PROVISIONS

A prior section 1821 was renumbered section 1831 of this title.

Another prior section 1821 was renumbered section 3721 of this title.

A prior section 1822 was renumbered section 1832 of this title.

Another prior section 1822, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 89–358, § 5(c), Mar. 3, 1966, 88 Stat. 26; Pub. L. 89–623, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 90–301, § 2(b), May 7, 1968, 82 Stat. 113, provided for bringing of an action in district court, by veteran or Attorney General, against one who knowingly participated in sale of property to a veteran for consideration in excess of reasonable value of property, prior to repeal by Pub. L. 93–569, §§ 7(a), 10, Dec. 31, 1974, 88 Stat. 1866, 1867, effective Dec. 31, 1974.

A prior section 1823 was renumbered section 1833 of this title.

Another prior section 1823 was renumbered section 3723 of this title and subsequently repealed.

A prior section 1824 was renumbered section 1834 of this title.

Another prior section 1824 was renumbered section 3724 of this title and subsequently repealed.

Another prior section 1824 was renumbered section 3725 of this title and subsequently repealed.

A prior section 1825 was renumbered 3725 of this title and subsequently repealed.

Prior sections 1826 to 1830 were renumbered sections 3726 to 3730 of this title, respectively.

SUBCHAPTER IV—GENERAL PROVISIONS

AMENDMENTS

2003—Pub. L. 108–183, § 102(a)(1), Dec. 16, 2003, 117 Stat. 2653, redesignated former subchapter III of this chapter as this subchapter.

§ 1831. Definitions

In this chapter:

(1) The term ''child'' means the following:

(A) For purposes of subchapters I and II of this chapter, an individual, regardless of age or marital status, who—

(i) is the natural child of a Vietnam veteran; and

(ii) was conceived after the date on which that veteran first entered the Republic of Vietnam during the Vietnam era.

(B) For purposes of subchapter III of this chapter, an individual, regardless of age or marital status, who—

(i) is the natural child of a veteran of covered service in Korea (as determined for purposes of section 1821 of this title); and

(ii) was conceived after the date on which that veteran first entered service described in subsection (c) of that section.

(2) The term ''Vietnam veteran'' means an individual who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era, without regard to the characterization of that individual's service.

(3) The term ''Vietnam era'' with respect to—

(A) subchapter I of this chapter, means the period beginning on January 9, 1962, and ending on May 7, 1975; and

(B) subchapter II of this chapter, means the period beginning on February 28, 1961, and ending on May 7, 1975.

(Added Pub. L. 106–419, title IV, § 401(b), Nov. 1, 2000, 114 Stat. 1859, § 1821; renumbered § 1831 and amended Pub. L. 108–183, title I, § 102(a)(1),(b), Dec. 16, 2003, 117 Stat. 2653, 2654.)

PRIOR PROVISIONS

A prior section 1831 was renumbered section 3731 of this title.

AMENDMENTS

2003—Pub. L. 108–183, § 102(a)(1), renumbered section 1821 of this title as this section.

Par. (1). Pub. L. 108–183, § 102(b), added par. (1) and struck out former par. (1) which read as follows: ''The term 'child' means an individual, regardless of age or marital status, who—

''(A) is the natural child of a Vietnam veteran; and

''(B) was conceived after the date on which that veteran first entered the Republic of Vietnam during the Vietnam era.''

EFFECTIVE DATE

Subchapter effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106–419, set out as a note under section 1811 of this title.

§ 1832. Applicability of certain administrative provisions

(a) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO COMPENSATION.—The provisions of this title specified in subsection (b) apply with respect to benefits and assistance under this chapter in the same manner as those provisions apply to compensation paid under chapter 11 of this title.

(b) SPECIFIED PROVISIONS.—The provisions of this title referred to in subsection (a) are the following:

(1) Section 5101(c).

(2) Subsections (a), (b)(2), (g), and (i) of section 5110.

(3) Section 5111.

(4) Subsection (a) and paragraphs (1), (6), (9), and (10) of subsection (b) of section 5112.

(Added Pub. L. 106–419, title IV, § 401(b), Nov. 1, 2000, 114 Stat. 1859, § 1822; renumbered § 1832, Pub.

L. 108–183, title I, § 102(a)(1), Dec. 16, 2003, 117 Stat. 2653.)

PRIOR PROVISIONS

A prior section 1832 was renumbered section 3732 of this title.

Another prior section 1832 was renumbered section 3733(d) of this title.

AMENDMENTS

2003—Pub. L. 108–183 renumbered section 1822 of this title as this section.

§ 1833. Treatment of receipt of monetary allowance and other benefits

(a) COORDINATION WITH OTHER BENEFITS PAID TO THE RECIPIENT.—Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of the individual to receive any other benefit to which the individual is otherwise entitled under any law administered by the Secretary.

(b) COORDINATION WITH BENEFITS BASED ON RELATIONSHIP OF RECIPIENTS.—Notwithstanding any other provision of law, receipt by an individual of a monetary allowance under this chapter shall not impair, infringe, or otherwise affect the right of any other individual to receive any benefit to which such other individual is entitled under any law administered by the Secretary based on the relationship of such other individual to the individual who receives such monetary allowance.

(c) MONETARY ALLOWANCE NOT TO BE CONSIDERED AS INCOME OR RESOURCES FOR CERTAIN PURPOSES.—Notwithstanding any other provision of law, a monetary allowance paid an individual under this chapter shall not be considered as income or resources in determining eligibility for, or the amount of benefits under, any Federal or federally assisted program.

(Added Pub. L. 106–419, title IV, § 401(b), Nov. 1, 2000, 114 Stat. 1860, § 1823; renumbered § 1833, Pub. L. 108–183, title I, § 102(a)(1), Dec. 16, 2003, 117 Stat. 2653.)

PRIOR PROVISIONS

A prior section 1833 was renumbered section 3733 of this title.

AMENDMENTS

2003—Pub. L. 108–183 renumbered section 1823 of this title as this section.

§ 1834. Nonduplication of benefits

(a) MONETARY ALLOWANCE.—In the case of an eligible child under subchapter II of this chapter whose only covered birth defect is spina bifida, a monetary allowance shall be paid under subchapter I of this chapter. In the case of an eligible child under subchapter II of this chapter who has spina bifida and one or more additional covered birth defects, a monetary allowance shall be paid under subchapter II of this chapter. In the case of a child eligible for benefits under subchapter I or II of this chapter who is also eligible for benefits under subchapter III of this chapter, a monetary allowance shall be paid under the subchapter of this chapter elected by the child.

(b) VOCATIONAL REHABILITATION.—An individual may only be provided one program of vocational training under this chapter.

(Added Pub. L. 106–419, title IV, § 401(b), Nov. 1, 2000, 114 Stat. 1860, § 1824; renumbered § 1834 and amended, Pub. L. 108–183, title I, § 102(a)(1), (c), Dec. 16, 2003, 117 Stat. 2653, 2654.)

PRIOR PROVISIONS

Prior sections 1834, 1835, and 1841 to 1851 were renumbered sections 3734, 3735, and 3741 to 3751 of this title, respectively.

AMENDMENTS

2003—Pub. L. 108–183, § 102(a)(1), renumbered section 1824 of this title as this section.

Subsec. (a). Pub. L. 108–183, § 102(c), inserted at end: ''In the case of a child eligible for benefits under subchapter I or II of this chapter who is also eligible for benefits under subchapter III of this chapter, a monetary allowance shall be paid under the subchapter of this chapter elected by the child.''

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AMENDMENTS

1998—Pub. L. 105–368, title III, § 302(a)(2), Nov. 11, 1998, 112 Stat. 3333, added item 1980.

1996—Pub. L. 104–275, title IV, § 405(b)(3), Oct. 9, 1996, 110 Stat. 3339, substituted ''SERVICEMEMBERS' GROUP'' for ''SERVICEMEN'S GROUP'' in subchapter III heading and ''Servicemembers' Group'' for ''Servicemen's Group'' in item 1974.

1992—Pub. L. 102–568, title II, § 203(b), Oct. 29, 1992, 106 Stat. 4325, added item 1922A.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 701 to 788 as 1901 to 1988, respectively.

Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405, substituted ''Secretary'' for ''Administrator'' in item 785.

1988—Pub. L. 100–687, div. B, title XIV, § 1401(c), Nov. 18, 1988, 102 Stat. 4129, added items 728, 729, and 763.

Pub. L. 100–322, title III, § 331(a)(2), (b)(2), May 20, 1988, 102 Stat. 536, 537, added items 727 and 762.

1979—Pub. L. 96–128, title III, §§ 302(b), 303(b), Nov. 28, 1979, 93 Stat. 986, added items 726 and 761.

1974—Pub. L. 93–289, §§ 2(b), 9(b), May 24, 1974, 88 Stat. 165, 172, added items 777, 778, and 779 and substituted ''Veterans' Special Life Insurance'' for ''Veterans' special term insurance'' in item 723.

1971—Pub. L. 92–188, § 3, Dec. 15, 1971, 85 Stat. 645, substituted ''Payment or use of dividends'' for ''Dividends to pay premiums'' in item 707.

1970—Pub. L. 91–291, § 7, June 25, 1970, 84 Stat. 331, substituted ''Duration and termination of coverage; conversion'' for ''Termination of coverage; conversion'' in item 768.

1965—Pub. L. 89–214, § 2, Sept. 29, 1965, 79 Stat. 886, redesignated ''SUBCHAPTER III—GENERAL'' as ''SUBCHAPTER IV—GENERAL'' and inserted ''SUBCHAPTER III—SERVICEMEN'S GROUP LIFE INSURANCE'' comprising items 765 to 776.

1964—Pub. L. 88–664, § 12(c), Oct. 13, 1964, 78 Stat. 1099, added item 725.

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

§ 1901. Definitions

For the purposes of this subchapter—

(1) The term ''insurance'' means National Service Life Insurance.

(2) The terms ''widow'' or ''widower'' mean a person who was the lawful spouse of the insured at the maturity of the insurance.

(3) The term ''child'' means a legitimate child, an adopted child, and, if designated as beneficiary by the insured, a stepchild or an illegitimate child.

(4) The terms ''parent'', ''father'', and ''mother'' mean a father, mother, father through adoption, mother through adoption, persons who have stood in loco parentis to a member of the military or naval forces at any time before entry into active service for a period of not less than one year, and a stepparent, if designated as beneficiary by the insured.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1148, § 701; renumbered § 1901, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 1901 was renumbered section 3901 of this title.

Another prior section 1901, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1215, as amended by Pub. L. 90–77, title II, § 204(a), Aug. 31, 1967, 81 Stat. 184, related to veterans eligible for assistance, prior to the general revision of chapter 39 of this title by Pub. L. 91–666. See sections 3901 and 3902 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 701 of this title as this section.

§ 1902. Premium rates and policy values

Premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at the rate of 3 per centum per annum. All cash, loan, paid-up, and extended values, and all other calculations in connection with insurance, shall be based upon said American Experience Table of Mortality and interest at the rate of 3 per centum per annum.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1148, § 702; renumbered § 1902, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 1902 was renumbered section 3902 of this title.

Another prior section 1902, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1215, related to limitation on types of assistance furnished and veterans otherwise entitled, prior to the general revision of chapter 39 of this title by Pub. L. 91–666. See sections 3902 and 3903 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 702 of this title as this section.

§ 1903. Amount of insurance

Insurance shall be issued in any multiple of $500 and the amount of insurance with respect to any one person shall be not less than $1,000 or more than $10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of $10,000 at any one time. The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 1907 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1148, § 703; Pub. L. 92–188, § 1, Dec. 15, 1971, 85 Stat. 645; renumbered § 1903 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 1903 was renumbered section 3903 of this title.

Another prior section 1903, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1216, related to limitation on amounts paid by United States, prior to the general revision of chapter 39 of this title by Pub. L. 91–666. See section 3902 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 703 of this title as this section and substituted ''1907'' for ''707''.

1971—Pub. L. 92–188 made section limitations inapplicable to the additional paid up insurance purchase of which is authorized under section 707 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–188 effective on date established by Administrator but in no event later than first day of first calendar month beginning more than six calendar months after Dec. 15, 1971, see section 4 of Pub. L. 92–188, set out as a note under section 1907 of this title.

§ 1904. Plans of insurance

(a) Insurance may be issued on the following plans: Five-year level premium term, ordinary life, twenty-payment life, thirty-payment life, twenty-year endowment, endowment at age sixty, and endowment at age sixty-five. Level premium term insurance may be converted as of the date when any premium becomes or has become due, or exchanged as of the date of the original policy, upon payment of the difference in reserve, at any time while such insurance is in force and within the term period to any of the foregoing permanent plans of insurance, except that conversion to an endowment plan may not be made while the insured is totally disabled.

(b) Under such regulations as the Secretary may promulgate a policy of participating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except (1) the premium rates for such insurance shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based on the 1958 Commissioners Standard Ordinary Basic Table of Mortality and interest at the rate of 3 per centum per annum; and (3) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium.

(c) Under such regulations as the Secretary may promulgate, a policy of nonparticipating insurance may be converted to or exchanged for insurance issued under this subsection on a modified life plan. Insurance issued under this subsection shall be on the same terms and conditions as the insurance which it replaces, except that (1) term insurance issued under section 621 of the National Service Life Insurance Act of 1940 shall be deemed for the purposes of this subsection to have been issued under section 1923(b) of this title; and (2) at the end of the day preceding the sixty-fifth birthday of the insured the face value of the modified life insurance policy or the amount of extended term insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any person eligible for insurance under section 1922(a), or section 1925 of this title may be granted a modified life insurance policy under this subsection which, subject to exception (2) above, shall be issued on the same terms and conditions specified in section 1922(a) or section 1925, whichever is applicable.

(d) Any insured whose modified life insurance policy is in force by payment or waiver of premiums on the day before the insured's sixty-fifth birthday may upon written application and payment of premiums made before such birthday be granted National Service Life Insurance, on an ordinary life plan, without physical examination, in an amount of not less than $500, in multiples of $250, but not in excess of one-half of the face amount of the modified life insurance policy in force on the day before the insured's sixty-fifth birthday. Insurance issued under this subsection shall be effective on the sixty-fifth birthday of the insured. The premium rate, cash, loan, paid-up, and extended values on the ordinary life insurance issued under this subsection shall be based on the same mortality tables and interest rates as the insurance issued under the modified life policy. Settlements on policies involving annuities on insurance issued under this subsection shall be based on the same mortality or annuity tables and interest rates as such settlements on the modified life policy. If the insured is totally disabled on the day before the insured's sixty-fifth birthday and premiums on the insured's modified life insurance policy are being waived under section 1912 of this title or the insured is entitled on that date to waiver under such section the insured shall be automatically granted the maximum amount of insurance authorized under this subsection and premiums on such insurance shall be waived during the continuous total disability of the insured.

(e) After June 30, 1972, and under such regulations as the Secretary may promulgate, insurance may be converted to or exchanged for insurance on a modified life plan under the same terms and conditions as are set forth in sub-

sections (b) and (c) of this section except that at the end of the day preceding the seventieth birthday of the insured the face value of the modified life insurance policy or the amount of extended insurance thereunder shall be automatically reduced by one-half thereof, without any reduction in premium. Any insured whose modified life insurance policy issued under this subsection is in force by payment or waiver of premiums on the day before the insured's seventieth birthday may be granted insurance on the ordinary life plan upon the same terms and conditions as are set forth in subsection (d) of this section except that in applying such provisions the seventieth birthday is to be substituted for the sixty-fifth birthday. Notwithstanding any other provision of law or regulations the Secretary under such terms and conditions as the Secretary determines to be reasonable and practicable and upon written application and payment of the required premiums, reserves, or other necessary amounts made within one year from the effective date of this subsection by an insured having in force a modified life plan issued under subsection (b) or (c) of this section, including any replacement insurance issued under subsection (d) of this section or other provision of this title, can exchange such insurance without proof of good health for an amount of insurance issued under this subsection equal to the insurance then in force or which was in force on the day before such insured's sixty-fifth birthday, whichever is the greater.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1148, § 704; Pub. L. 88–664, § 12(b), Oct. 13, 1964, 78 Stat. 1098; Pub. L. 92–193, Dec. 15, 1971, 85 Stat. 648; Pub. L. 97–295, § 4(21), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 99–576, title VII, § 701(21), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1904 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (c), is section 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which was repealed and the provisions thereof reenacted as section 723 [now 1923] of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

PRIOR PROVISIONS

Prior section 1904 was renumbered section 3904 of this title.

Another prior section 1904, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1216, related to prohibition against duplication of benefits, prior to the general revision of chapter 39 of this title by Pub. L. 91–666, § 2(a), Jan. 11, 1971, 84 Stat. 1998. See section 3903 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 704 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted "1923(b)" for "723(b)", "1922(a)" for "722(a)" in two places, and "1925" for "725" in two places.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted "1912" for "712".

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (d). Pub. L. 99–576, § 701(21)(A), substituted "the insured's" for "his" in four places, and "the insured" for "he" in two places.

Subsec. (e). Pub. L. 99–576, § 701(21)(B), substituted "the insured's" for "his" and "the Administrator" for "he".

1982—Subsec. (e). Pub. L. 97–295 substituted "After June 30, 1972," for "On and after the effective date of this subsection", and substituted "subsection" for "subsections" after "plan issued under".

1971—Subsec. (e). Pub. L. 92–193 added subsec. (e).

1964—Pub. L. 88–664 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92–193 provided that the amendment made by Pub. L. 92–193 is effective first day of first calendar month which begins more than six calendar months after Dec. 15, 1971.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective first day of first calendar month which begins more than six calendar months after Oct. 13, 1964, see section 12(d) of Pub. L. 88–664, set out as an Effective Date note under section 1925 of this title.

§ 1905. Renewal

All level premium term policies, except as otherwise provided in this section, shall cease and terminate at the expiration of the term period. At the expiration of any term period any five-year level premium term policy which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal will be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of the term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Secretary. In any case in which the insured is shown by evidence satisfactory to the Secretary to be totally disabled at the expiration of the level premium term period of the insurance under conditions which would entitle the insured to continued insurance protection but for such expiration, the insurance, if subject to renewal under this section, shall be automatically renewed for an additional period of five years at the premium rate for the then attained age, unless the insured has elected insurance on some other available plan.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1148, § 705; Pub. L. 91–291, § 8, June 25, 1970, 84 Stat. 331; Pub. L. 99–576, title VII, § 701(22), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1905 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1905, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1216; Pub. L. 90–77, title II, § 204(b), Aug. 31, 1967, 81 Stat. 184, related to applications, prior to the general revision of chapter 39 of this title by Pub. L. 91–666, § 2(a), Jan. 11, 1971, 84 Stat. 1998.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 705 of this title as this section and substituted "Secretary" for "Administrator" in two places.

1986—Pub. L. 99–576 substituted ''the'' for ''his'' in three places and ''the insured'' for ''him''.

1970—Pub. L. 91–291 made it a requirement for renewal of lapsed policies that the insured make application for reinstatement and renewal of his term policy within five years after the date of lapse and struck out provision that the lapse occur within two months before the expiration of the term period.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

§ 1906. Policy provisions

Provisions for cash, loan, paid-up, and extended values, dividends from gains and savings, refund of unearned premiums, and such other provisions as may be found to be reasonable and practicable may be provided for in the policy of insurance from time to time by regulations promulgated by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149, § 706; renumbered § 1906 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 706 of this title as this section and substituted ''Secretary'' for ''Administrator''.

§ 1907. Payment or use of dividends

(a) Until and unless the Secretary has received from the insured a request or directive in writing exercising any other dividend option allowable under the insured's policy, any dividend accumulations and unpaid dividends shall be applied in payment of premiums becoming due on insurance subsequent to the date the dividend is payable after January 1, 1952.

(b) No claim by an insured for payment in cash of a special dividend declared prior to January 1, 1952, shall be processed by the Secretary unless such claim was received within six years after such dividend was declared. Whenever any claim for payment of a special dividend, the processing of which is barred by this subsection, is received by the Secretary, it shall be returned to the claimant, with a copy of this subsection, and such action shall be a complete response without further communication.

(c) The Secretary, upon application in writing made by the insured for insurance under this subsection, and without proof of good health, is authorized to apply any dividend due and payable on national service life insurance after the date of such application to purchase paid up insurance. Also, the Secretary, upon application in writing made by the insured during the one-year period beginning September 1, 1991, and without proof of good health, is authorized to apply any national service life insurance dividend credits and deposits of such insured existing at the date of the insured's application to purchase paid up insurance. After September 1, 1992, the Secretary may, from time to time, provide for further one-year periods during which insureds may purchase additional paid up insurance from existing dividend credits and deposits. Any such period for the purchase of additional paid up insurance may be allowed only if the Secretary determines in the case of any such period that it would be actuarially and administratively sound to do so. Any dividends, dividend credits, or deposits on endowment policies may be used under this subsection only to purchase additional paid up endowment insurance which matures concurrently with the basic policy. Any dividends, dividend credits, or deposits on policies (other than endowment policies) may be used under this section only to purchase additional paid up whole life insurance. The paid up insurance granted under this subsection shall be in addition to any insurance otherwise authorized under this title, or under prior provisions of law. The paid up insurance granted under this subsection shall be issued on the same terms and conditions as are contained in the standard policies of national service life insurance except (1) the premium rates for such insurance and all cash and loan values thereon shall be based on such table of mortality and rate of interest per annum as may be prescribed by the Secretary; (2) the total disability income provision authorized under section 1915 of this title may not be added to insurance issued under this section; and (3) the insurance shall include such other changes in terms and conditions as the Secretary determines to be reasonable and practicable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149, § 707; Pub. L. 91–291, § 9, June 25, 1970, 84 Stat. 331; Pub. L. 92–188, § 2, Dec. 15, 1971, 85 Stat. 645; Pub. L. 97–295, § 4(22), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 99–576, title VII, § 701(23), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1907 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iii)(I), (C)(i), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–86, title II, § 203, Aug. 14, 1991, 105 Stat. 416.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 707 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(2)(A)(iii)(I), substituted ''Secretary'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(a)(2)(C)(i), substituted ''by the Secretary'' for ''in the Veterans' Administration'' in second sentence.

Pub. L. 102–83, § 4(a)(2)(A)(iii)(I), substituted ''Secretary'' for ''Veterans' Administration'' in first sentence.

Subsec. (c). Pub. L. 102–86 amended subsec. (c) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''during the one-year period beginning September 1, 1991'' for ''before February 1, 1973'' and inserting after second sentence ''After September 1, 1992, the Secretary may, from time to time, provide for further one-year periods during which insureds may purchase additional paid up insurance from existing dividend credits and deposits. Any such period for the purchase of additional paid up insurance may be allowed only if the Secretary determines in the case of any such period that it would be actuarially and administratively sound to do so.''

Pub. L. 102–83, § 5(c)(1), substituted ''1915'' for ''715'' in cl. (2).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsecs. (a), (c). Pub. L. 99–576 substituted ''the insured's'' for ''his''.

1982—Subsec. (c). Pub. L. 97–295 substituted ''before February 1, 1973'' for ''within six calendar months after the effective date of this subsection''.

1971—Pub. L. 92–188, § 2(3), substituted ''Payment or use of dividends'' for ''Dividends to pay premiums'' as section catchline.

Subsec. (a). Pub. L. 92–188, § 2(1), substituted ''or directive in writing exercising any other dividend option allowable under his policy'' for ''in writing for payment in cash''.

Subsec. (c). Pub. L. 92–188, § 2(2), added subsec. (c).

1970—Pub. L. 91–291 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1971 AMENDMENT

Section 4 of Pub. L. 92–188 provided that: ''The amendments made by this Act [amending this section and sections 703 and 741 [now 1903 and 1941] of this title] shall take effect on a date established by the Administrator but in no event later than the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act [Dec. 15, 1971].''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

§ 1908. Premium payments

The Secretary shall, by regulations, prescribe the time and method of payment of the premiums on insurance, but payments of premiums in advance shall not be required for periods of more than one month each, and may at the election of the insured be deducted from the insured's active-service pay or be otherwise made. An amount equal to the first premium due under a National Service Life Insurance policy may be advanced from current appropriations for active-service pay to any person in the active service in the Army, Navy, Air Force, Marine Corps, or Coast Guard, which amount shall constitute a lien upon any service or other pay accruing to the person for whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance. Any amount so advanced in excess of available service or other pay shall constitute a lien on the policy within the provisions of section 5301(b) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149, § 708; Pub. L. 99–576, title VII, § 701(24), Oct. 28, 1986, 100 Stat. 3292; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1908 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 708 of this title as this section and substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5301(b)'' for ''3101(b)''.

1986—Pub. L. 99–576 substituted ''the insured's'' for ''his''.

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.

§ 1909. Effective date of insurance

Insurance may be made effective, as specified in the application, not later than the first day of the calendar month following the date of application therefor, but the United States shall not be liable thereunder for death occurring before such effective date.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149, § 709; renumbered § 1909, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 709 of this title as this section.

§ 1910. Incontestability

Subject to the provisions of section 1911 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issue, reinstatement, or conversion except for fraud, nonpayment of premium, or on the ground that the applicant was not a member of the military or naval forces of the United States. However, in any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Secretary shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Secretary to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1149, § 710; renumbered § 1910 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iii)(II), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 710 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1911'' for ''711''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''shall''.

Pub. L. 102–83, § 4(a)(2)(A)(iii)(II), substituted ''Secretary'' for ''Veterans' Administration'' before ''to issue''.

§ 1911. Forfeiture

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to National Service Life Insurance. No insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States; but the cash surrender value, if any, of such insurance on the date of such death shall be paid to the designated beneficiary, if living, or otherwise to the beneficiary or beneficiaries within the permitted class in accordance with the order specified in section 1916(b) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1150, § 711; renumbered § 1911 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 711 of this title as this section and substituted ''1916(b)'' for ''716(b)''.

§ 1912. Total disability waiver

(a) Upon application by the insured and under such regulations as the Secretary may promulgate, payment of premiums on insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability began (1) after the date of the insured's application for insurance, (2) while the insurance was in force under premium-paying conditions, and (3) before the insured's sixty-fifth birthday. Notwithstanding any other provision of this chapter, in any case in which the total disability of the insured commenced on or after the insured's sixtieth birthday but before the insured's sixty-fifth birthday, the Secretary shall not grant waiver of any premium becoming due prior to January 1, 1965.

(b) The Secretary, upon any application made after August 1, 1947, shall not grant waiver of any premium becoming due more than one year before the receipt by the Secretary of application for the same, except as provided in this section. Any premiums paid for months during which waiver is effective shall be refunded. The Secretary shall provide by regulations for examination or reexamination of an insured claiming benefits under this section, and may deny benefits for failure to cooperate. If it is found that an insured is no longer totally disabled, the waiver of premiums shall cease as of the date of such finding and the policy of insurance may be continued by payment of premiums as provided in said policy. In any case in which the Secretary finds that the insured's failure to make timely application for waiver of premiums or the insured's failure to submit satisfactory evidence of the existence or continuance of total disability was due to circumstances beyond the insured's control, the Secretary may grant waiver or continuance of waiver of premiums.

(c) If the insured dies without filing application for waiver, the beneficiary, within one year after the death of the insured, or, if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under this section. Premium rates shall be calculated without charge for the cost of waiver of premiums provided in this section and no deduction from benefits otherwise payable shall be made on account thereof.

(d) In any case in which an insured has been denied or would have been denied premium waiver under section 602(n) of the National Service Life Insurance Act of 1940 or this section solely because the insured became totally disabled between the date of valid application for insurance and the subsequent effective date thereof, and in which it is shown that (1) the total disability was incurred in line of duty between October 8, 1940, and July 31, 1946, inclusive, or June 27, 1950, and April 30, 1951, inclusive, and (2) the insured remained continuously so totally disabled to the date of death or June 8, 1960, whichever is earlier, the Secretary may grant waiver of premiums from the beginning of and during the continuous total disability of such insured. Application for waiver of premiums under this subsection must be filed by the insured or, in the event of the insured's death, by the beneficiary within two years after June 8, 1960, except that if the insured or the beneficiary be insane or a minor within the two-year period, application for such waiver may be filed within two years after removal of such legal disability, or if an insane insured shall die before the removal of the disability, application may be filed by the beneficiary within two years after the insured's death. No insurance shall be placed in force under this subsection in any case in which there was an award of benefits under the Servicemen's Indemnity Act of 1951 or of gratuitous insurance under section 1922(b) of this title. The amount of insurance placed in force hereunder together with any other United States Government life insurance or national service life insurance in force at the time of death, or at the time of the insured's application for waiver hereunder, may not exceed $10,000 and shall be reduced by the amount of any gratuitous insurance awarded under the National Service Life Insurance Act of 1940. Waiver of premiums under this subsection shall render the insurance nonparticipating during the period such premium waiver is in effect. The cost of waiver of premium and death benefits paid as a result of this subsection shall be borne by the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1150, § 712; Pub. L. 86–497, June 8, 1960, 74 Stat. 164; Pub. L. 88–364, July 7, 1964, 78 Stat. 302; Pub. L. 97–295, § 4(23), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 99–576, title VII, § 701(25), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1912 and amended Pub. L. 102–83, §§ 4(a)(2)(C)(ii), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (d), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, as amended, which was classified generally to subchapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, § 502(9), 70 Stat. 886.

The National Service Life Insurance Act of 1940, referred to in subsec. (d), is act Oct. 8, 1940, ch. 757, title VI, pt. I, §§ 601 to 623, 54 Stat. 1008, as amended, which was classified generally to subchapter I (§§ 801 to 824) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by Pub. L. 85–857, § 14(75), Sept. 2, 1958, 72 Stat. 1272, and the provisions thereof reenacted generally as this subchapter by the first section of Pub. L. 85–857 which enacted Title 38, Veterans' Benefits. Section 602(n) of the 1940 Act, also referred to in subsec. (d), is covered by this section.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 712 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in four places.

Pub. L. 102–83, § 4(a)(2)(C)(ii), substituted ''by the Secretary'' for ''in the Veterans' Administration''.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1922(b)'' for ''722(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsecs. (a), (b), (d). Pub. L. 99–576 substituted ''the insured's'' for ''his'' wherever appearing, and ''the insured'' for ''he'' in first sentence of subsec. (d).

1982—Subsec. (d). Pub. L. 97–295 substituted ''June 8, 1960'' for ''the date of enactment of this subsection'' in two places.

1964—Subsec. (a). Pub. L. 88–364 extended from age 60 to age 65 the age before which a person must become totally disabled to be eligible for waiver of premiums, and provided that where total disability commenced on or after the 60th birthday but before the 65th, the Administrator shall not waive premiums becoming due prior to Jan. 1, 1965.

1960—Subsec. (d). Pub. L. 86–497 added subsec. (d).

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–364 provided that the amendment made by Pub. L. 88–364 is effective Jan. 1, 1965.

§ 1913. Death before six months' total disability

Whenever premiums are not waived under section 1912 of this title solely because the insured died prior to the continuance of total disability for six months, and proof of such facts, satisfactory to the Secretary, is filed by the beneficiary with the Department within one year after the insured's death, the insurance shall be deemed to be in force at the date of the death, and the unpaid premiums shall become a lien against the proceeds of the insurance. If the beneficiary is insane or a minor, proof of such facts may be filed within one year after removal of such legal disability.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1150, § 713; Pub. L. 99–576, title VII, § 701(26), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1913 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 713 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1912'' for ''712''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''the'' for ''his'' in three places.

§ 1914. Statutory total disabilities

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the total loss of hearing of both ears, or the organic loss of speech, shall be deemed total disability for insurance purposes.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1151, § 714; renumbered § 1914, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 714 of this title as this section.

§ 1915. Total disability income provision

The Secretary shall, except as hereinafter provided, upon application by the insured and proof of good health satisfactory to the Secretary and payment of such extra premium as the Secretary shall prescribe, include in any National Service Life Insurance policy on the life of the insured (except a policy issued under section 620 of the National Service Life Insurance Act of 1940, or section 1922 of this title) provisions whereby an insured who is shown to have become totally disabled for a period of six consecutive months or more commencing after the date of such application and before attaining the age of sixty-five and while the payment of any premium is not in default, shall be paid monthly disability benefits from the first day of the seventh consecutive month of and during the continuance of such total disability of $10 for each $1,000 of such insurance in effect when such benefits become payable. The total disability provision authorized under this section shall not be issued unless application therefor is made either prior to the insured's fifty-fifth birthday, or before the insured's sixtieth birthday and prior to January 1, 1966. The total disability provision authorized under this section shall not be added to a policy containing the total disability coverage heretofore issued under section 602(v) of the National Service Life Insurance Act of 1940, or the provisions of this section as in effect before January 1, 1965, except upon surrender of such total disability coverage, proof of good health, if required, satisfactory to the Secretary, and payment of such extra premium as the Secretary shall determine is required in such cases. Participating policies containing additional provisions for the payment of disability benefits may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such benefits.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1151, § 715; Pub. L. 88–355, July 7, 1964, 78 Stat. 272; renumbered § 1915 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 620 of the National Service Life Insurance Act of 1940, referred to in text, is section 620 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 821 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 722 [now 1922] of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

Section 602(v) of the National Service Life Insurance Act of 1940, referred to in text, is section 602(v) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(v) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section and section 721 [now 1921] of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 715 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1922'' for ''722''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1964—Pub. L. 88–355 authorized issuance of total disability income provisions to provide coverage to age 65 instead of to age 60, provided that said provisions shall not be issued unless application therefor is made either prior to the insured's 55th birthday, or before the insured's 60th birthday and prior to Jan. 1, 1966, and inserted ''or the provisions of this section as in effect be-

fore January 1, 1965'' before ''except upon surrender'', and ''if required'' after ''proof of good health.''

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–355 provided that the amendment made by Pub. L. 88–355 is effective Jan. 1, 1965.

§ 1916. Insurance which matured before August 1, 1946

(a) Insurance which matured before August 1, 1946, is payable in the following manner:

(1) If the beneficiary to whom payment is first made was under thirty years of age at the time of maturity, in two hundred and forty equal monthly installments.

(2) If the beneficiary to whom payment is first made was thirty or more years of age at the time of maturity, in equal monthly installments for one hundred and twenty months certain, with such payments continuing during the remaining lifetime of such beneficiary.

(3) If elected by the insured or a beneficiary entitled to make such an election under prior provisions of law, as a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary. A refund life income optional settlement is not available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months. If the mode of payment is changed to a refund life income in accordance with prior provisions of law, after payment has commenced, payment of monthly installments will be adjusted as of the date of maturity of such policy with credit being allowed for payments previously made on the insurance.

(b) Such insurance shall be payable only to a widow, widower, child, parent, brother or sister of the insured. Any installments certain of such insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the following classes, and in the order named, unless designated by the insured in a different order:

(1) To the widow or widower of the insured, if living.

(2) If no widow or widower, to the child or children of the insured, if living, in equal shares.

(3) If no widow, widower, or child, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(4) If no widow, widower, child, or parent, to the brothers and sisters of the insured, if living, in equal shares.

(c) The provisions of this section shall not be construed to enlarge the classes of beneficiaries heretofore authorized under section 602(d) of the National Service Life Insurance Act of 1940, for payment of gratuitous insurance.

(d) If no beneficiary of insurance which matured before August 1, 1946, was designated by the insured or if the designated beneficiary did not survive the insured, the beneficiary shall be determined in accordance with the order specified in subsection (b) and the insurance shall be payable in equal monthly installments in accordance with subsection (a). The right of any beneficiary to payment of any installments of such insurance shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b).

(e) No installments of insurance which matured before August 1, 1946, shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made, except that if the reserve of a contract of converted National Service Life Insurance, together with dividends accumulated thereon, less any indebtedness under such contract, exceeds the aggregate amount paid to beneficiaries, the excess shall be paid to the estate of the insured unless the estate of the insured would escheat under the laws of the insured's place of residence, in which event no payment shall be made. When the amount of an individual monthly payment of such insurance is less than $5, such amount may, in the discretion of the Secretary, be allowed to accumulate without interest and be disbursed annually.

(f) Any payments of insurance made to a person, represented by the insured to be within the permitted class of beneficiaries, shall be deemed to have been properly made and to satisfy fully the obligation of the United States under such insurance policy to the extent of such payments.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1151, § 716; Pub. L. 99–576, title VII, § 701(27), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1916 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title V, § 506(a)(2), Aug. 14, 1991, 105 Stat. 426.)

REFERENCES IN TEXT

Section 602(d) of the National Service Life Insurance Act of 1940, referred to in subsec. (c), is section 602(d) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(d) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was omitted in the general revision and reenactment of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 716 of this title as this section.

Subsec. (b). Pub. L. 102–86 amended subsec. (b) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''unpaid'' for ''upaid''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (e). Pub. L. 99–576 substituted ''the insured's'' for ''his''.

§ 1917. Insurance maturing on or after August 1, 1946

(a) The insured shall have the right to designate the beneficiary or beneficiaries of insurance maturing on or after August 1, 1946, and shall, subject to regulations, at all times have the right to change the beneficiary or beneficiaries of such insurance without the consent of such beneficiary or beneficiaries.

(b) Insurance maturing on or after August 1, 1946, shall be payable in accordance with the following optional modes of settlement:

(1) In one sum.

(2) In equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve.

(3) In equal monthly installments for one hundred and twenty months certain with such payments continuing during the remaining lifetime of the first beneficiary.

(4) As a refund life income in monthly installments payable for such period certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the face value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the first beneficiary; however, such optional settlement shall not be available in any case in which such settlement would result in payments of installments over a shorter period than one hundred and twenty months.

(c) Except as provided in the second and third sentences of this subsection, unless the insured elects some other mode of settlement, such insurance shall be payable to the designated beneficiary or beneficiaries in thirty-six equal monthly installments. The first beneficiary may elect to receive payment under any option which provides for payment over a longer period of time than the option elected by the insured, or if no option has been elected by the insured, in excess of thirty-six months. In the case of insurance maturing after September 30, 1981, and for which no option has been elected by the insured, the first beneficiary may elect to receive payment in one sum. If the option selected requires payment to any one beneficiary of monthly installments of less than $10, the amount payable to such beneficiary shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10. If the present value of the amount payable at the time any person initially becomes entitled to payment thereof is not sufficient to pay at least twelve monthly installments of not less than $10 each, such amount shall be payable in one sum. Options (3) and (4) shall not be available if any firm, corporation, legal entity (including the estate of the insured), or trustee is beneficiary.

(d) If the beneficiary of such insurance is entitled to a lump-sum settlement but elects some other mode of settlement and dies before receiving all the benefits due and payable under such mode of settlement, the present value of the remaining unpaid amount shall be payable to the estate of the beneficiary. If no beneficiary is designated by the insured, or if the designated beneficiary does not survive the insured, or if a designated beneficiary not entitled to a lump-sum settlement survives the insured, and dies before receiving all the benefits due and payable, then the commuted value of the remaining unpaid insurance (whether accrued or not) shall be paid in one sum to the estate of the insured. In no event shall there be any payment to the estate of the insured or of the beneficiary of any sums unless it is shown that any sums paid will not escheat.

(e) Under such regulations as the Secretary may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured under option (2) or (4) of this section. All settlements under option (4), however, shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

(f)(1) Following the death of the insured and in a case not covered by subsection (d)—

(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1152, § 717; Pub. L. 91–291, § 10, June 25, 1970, 84 Stat. 331; Pub. L. 97–66, title IV, § 403(a), Oct. 17, 1981, 95 Stat. 1031; renumbered § 1917 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–183, title I, § 103(a), Dec. 16, 2003, 117 Stat. 2655.)

AMENDMENTS

2003—Subsec. (f). Pub. L. 108–183 added subsec. (f).

1991—Pub. L. 102–83 renumbered section 717 of this title as this section and substituted ''Secretary'' for ''Administrator'' in subsec. (e).

1981—Subsec. (c). Pub. L. 97–66 substituted ''Except as provided in the second and third sentences of this subsection, unless'' for ''Unless'' and inserted provision that, in the case of insurance maturing after September 30, 1981, and for which no option has been elected by the insured, the first beneficiary may elect to receive payment in one sum.

1970—Subsec. (c). Pub. L. 91–291 struck out provision that options (3) and (4) were not available in cases where the endowment contract matured by reason of the completion of the endowment period.

Subsec. (e). Pub. L. 91–291 added subsec. (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title I, § 103(c), Dec. 16, 2003, 117 Stat. 2655, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 1952 of this title] shall take effect on October 1, 2004.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective first day of first calendar month which begins more than six calendar months after June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

TRANSITION PROVISION

Pub. L. 108–183, title I, § 103(d), Dec. 16, 2003, 117 Stat. 2655, provided that: ''In the case of a person insured under subchapter I or II of chapter 19 of title 38, United States Code, who dies before the effective date of the amendments made by subsections (a) and (b), as specified by subsection (c) [set out as an Effective Date of 2003 Amendment note above], the two-year and four-year periods specified in subsection (f)(1) of section 1917 of title 38, United States Code, as added by subsection (a), and subsection (c)(1) of section 1952 of such title, as added by subsection (b), as applicable, shall for purposes of the applicable subsection be treated as being the two-year and four-year periods, respectively, beginning on the effective date of such amendments, as so specified.''

§ 1918. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Secretary before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing after July 26, 1962.

(b) Except as to insurance granted under the provisions of section 1922(b) of this title, any person to whom insurance maturing after July 26, 1962, is payable may assign all or any portion of such person's interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1153, § 718; Pub. L. 87–557, § 1, July 27, 1962, 76 Stat. 245; Pub. L. 96–128, title III, § 304, Nov. 28, 1979, 93 Stat. 986; Pub. L. 97–295, § 4(24), Oct. 12, 1982, 96 Stat. 1306; renumbered § 1918 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iii)(III), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 718 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(2)(A)(iii)(III), substituted ''Secretary'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1922(b)'' for ''722(b)''.

1982—Subsec. (a). Pub. L. 97–295 substituted ''after July 26, 1962'' for ''on or after the date of enactment of this sentence''.

Subsec. (b). Pub. L. 97–295 substituted ''after July 26, 1982,'' for ''on or after the date of enactment of this sentence''.

1979—Subsec. (b). Pub. L. 96–128 substituted ''such person's'' for ''his''.

1962—Pub. L. 87–557 designated existing provisions as subsec. (a), inserted sentence making subsection inapplicable to insurance maturing on or after ''the date of enactment of this sentence [July 27, 1962]'', and added subsec. (b).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

§ 1919. National Service Life Insurance appropriation

(a) The National Service Life Insurance appropriation is continued and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter and the provisions heretofore prescribed in the National Service Life Insurance Act of 1940, or related Acts, for the payment of liabilities under National Service Life Insurance. Payment from this appropriation shall be made upon and in accordance with awards by the Secretary.

(b) All premiums heretofore and hereafter paid on insurance issued or reinstated under section 602(v)(1) of the National Service Life Insurance Act of 1940 where the requirement of good health was waived under such section because of a service-incurred injury or disability shall be credited directly to the National Service Life Insurance appropriation and any payments of benefits heretofore and hereafter made on such insurance shall be made directly from such appropriation.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1154, § 719; Pub. L. 98–160, title VII, § 702(5), Nov. 21, 1983, 97 Stat. 1009; renumbered § 1919 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 105–368, title III, § 304(a), Nov. 11, 1998, 112 Stat. 3334.)

REFERENCES IN TEXT

The National Service Life Insurance Act of 1940, referred to in subsec. (a), is act Oct. 8, 1940, ch. 757, title VI, part I, 54 Stat. 1008, as amended, which was classified generally to chapter 13 (§ 801 et seq.) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this subchapter by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

Section 602(v)(i) of the National Service Life Insurance Act of 1940, referred to in subsec. (b), is section 602(v)(1) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(v)(1) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 715 [now 1915] of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–368 substituted ''section 602(v)(1)'' for ''sections 602(c)(2) and 602(v)(1)'' and ''under such section'' for ''under such sections''.

1991—Pub. L. 102–83 renumbered section 719 of this title as this section and substituted ''Secretary'' for ''Administrator'' in subsec. (a).

1983—Subsec. (b). Pub. L. 98–160 substituted ''sections'' for ''subsections'' after ''issued or reinstated under'' and after ''waived under such''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title III, § 304(b), Nov. 11, 1998, 112 Stat. 3334, provided that: ''The amendments made by this section [amending this section] shall take effect at the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 11, 1998].''

§ 1920. National Service Life Insurance Fund

(a) The National Service Life Insurance Fund heretofore created in the Treasury is continued as a permanent trust fund. Except as otherwise provided in this chapter, all premiums paid on account of National Service Life Insurance shall be deposited and covered into the Treasury to the credit of such fund, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance, including payment of dividends and refunds of unearned premiums, and for the reimbursement of administrative costs under subsection (c). Payments from this fund shall be made upon and in accordance with awards by the Secretary.

(b) The Secretary is authorized to set aside out of such fund such reserve amounts as may be required under accepted actuarial principles to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest such fund, or any part thereof, in interest-bearing obligations of the United States or in obligations guaranteed as to principal and interest by the United States, and to sell such obligations for the purposes of such fund.

(c)(1) For each fiscal year for which this subsection is in effect, the Secretary shall, from the National Service Life Insurance Fund, reimburse the ''General operating expenses'' account of the Department for the amount of administrative costs determined under paragraph (2) for that fiscal year. Such reimbursement shall be made from any surplus earnings for that fiscal year that are available for dividends on such insurance after claims have been paid and actuarially determined reserves have been set aside. However, if the amount of such administrative costs exceeds the amount of such surplus earnings, such reimbursement shall be made only to the extent of such surplus earnings.

(2) The Secretary shall determine the administrative costs to the Department for a fiscal year for which this subsection is in effect which, in the judgment of the Secretary, are properly allocable to the provision of National Service Life Insurance (and to the provision of any total disability income insurance added to the provision of such insurance).

(3) This subsection shall be in effect only with respect to fiscal year 1996.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1154, § 720; renumbered § 1920 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–99, title II, § 201(b), Jan. 26, 1996, 110 Stat. 36.)

CODIFICATION

Amendment by Pub. L. 104–99 is based on section 107(1) of H.R. 2099, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 7, 1995, which was enacted into law by Pub. L. 104–99.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–99 inserted '', and for the reimbursement of administrative costs under subsection (c)'' after ''unearned premiums''.

Subsec. (c). Pub. L. 104–99 added subsec. (c).

1991—Pub. L. 102–83 renumbered section 720 of this title as this section and substituted ''Secretary'' for ''Administrator'' in two places.

§ 1921. Extra hazard costs

(a) The United States shall bear the excess mortality cost and the cost of waiver of premiums on account of total disability traceable to the extra hazard of military or naval service, as such hazard may be determined by the Secretary.

(b) Whenever benefits under insurance become payable because of the death of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Secretary, the liability for payment of such benefits shall be borne by the United States in an amount which, when added to the reserve of the policy at the time of death of the insured will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits of insurance heretofore or hereafter matured, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Secretary may prescribe with interest at the rate of 3 per centum per annum. The Secretary shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) Whenever the premiums under insurance are waived because of the total disability of the insured as the result of disease or injury traceable to the extra hazard of military or naval service, as such hazard may be determined by the Secretary, the premiums so waived shall be paid by the United States and the Secretary shall transfer from time to time an amount equal to the amount of such premiums from the National Service Life Insurance appropriation to the National Service Life Insurance Fund.

(d) Whenever benefits under the total disability income provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Secretary, the liability shall be borne by the United States, and the Secretary shall transfer from the National Service Life Insurance appropriation to the National Service Life Insurance Fund from time to time any amounts which become, or have become, payable to the insured on account of such total disability, and to transfer

from the National Service Life Insurance Fund to the National Service Life Insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability, and is then entitled to continue protection under the total disability income provision, the Secretary shall transfer to the National Service Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(e) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1154, § 721; renumbered § 1921 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Public Law 816, Seventy-seventh Congress, referred to in subsec. (e), is act Dec. 18, 1942, ch. 768, §§ 1, 2, 56 Stat. 1066. Section 1 of that Act enacted section 853c–5 of former Title 34, Navy, and was repealed by act July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505. Section 2 of that Act enacted section 853c–6 of former Title 34, and was omitted from the Code in the general revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 721 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (a) to (d).

§ 1922. Service disabled veterans' insurance

(a) Any person who is released from active military, naval, or air service, under other than dishonorable conditions on or after April 25, 1951, and is found by the Secretary to be suffering from a disability or disabilities for which compensation would be payable if 10 per centum or more in degree and except for which such person would be insurable according to the standards of good health established by the Secretary, shall, upon application in writing made within two years from the date service-connection of such disability is determined by the Secretary and payment of premiums as provided in this subchapter, be granted insurance by the United States against the death of such person occurring while such insurance is in force. If such a person is shown by evidence satisfactory to the Secretary to have been mentally incompetent during any part of the two-year period, application for insurance under this section may be filed within two years after a guardian is appointed or within two years after the removal of such disability as determined by the Secretary, whichever is the earlier date. If the guardian was appointed or the removal of the disability occurred before January 1, 1959, application for insurance under this section may be made within two years after that date. Insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (2) all cash, loan, paid-up, and extended values shall be based upon the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) insurance granted under this section shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to a revolving fund in the Treasury of the United States, and any payments on such insurance shall be made directly from such fund. Appropriations to such fund are hereby authorized. As to insurance issued under this section, waiver of premiums pursuant to section 602(n) of the National Service Life Insurance Act of 1940 and section 1912 of this title shall not be denied on the ground that the service-connected disability became total before the effective date of such insurance.

(b)(1) Any person who, on or after April 25, 1951, was otherwise qualified for insurance under the provisions of section 620 of the National Service Life Insurance Act of 1940, or under subsection (a) of this section, but who did not apply for such insurance and who is shown by evidence satisfactory to the Secretary (A) to have been mentally incompetent from a service-connected disability, (i) at the time of release from active service, or (ii) during any part of the two-year period from the date the service connection of a disability is first determined by the Secretary, or (iii) after release from active service but is not rated service-connected disabled by the Secretary until after death; and (B) to have remained continuously so mentally incompetent until date of death; and (C) to have died before the appointment of a guardian, or within two years after the appointment of a guardian; shall be deemed to have applied for and to have been granted such insurance, as of the date of death, in an amount which, together with any other United States Government or National Service life insurance in force, shall aggregate $10,000. The date to be used for determining whether such person was insurable according to the standards of good health established by the Secretary, except for the service-connected disability, shall be the date of release from active service or the date the person became mentally incompetent, whichever is the later.

(2) Payments of insurance granted under subsection (b)(1) of this section shall be made only to the following beneficiaries and in the order named—

(A) to the widow or widower of the insured, if living and while unremarried;

(B) if no widow or widower entitled thereto, to the child or children of the insured, if living, in equal shares;

(C) if no widow or widower or child entitled thereto, to the parent or parents of the insured who last bore that relationship, if living, in equal shares.

(3) No application for insurance payments under this subsection shall be valid unless filed

with the Secretary within two years after the date of death of the insured or before January 1, 1961, whichever is the later, and the relationship of the applicant shall be proved as of the date of death of the insured by evidence satisfactory to the Secretary. Persons shown by evidence satisfactory to the Secretary to have been mentally or legally incompetent at the time the right to apply for death benefits expires, may make such application at any time within one year after the removal of such disability.

(4) Notwithstanding section 1917 of this title, insurance under this subsection shall be payable to the beneficiary determined under paragraph (2) of this subsection in a lump sum.

(c) The premium rate of any term insurance issued under this section shall not exceed the renewal age 70 premium rate.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1155, § 722; renumbered § 1922 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iii)(IV), (D)(i), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–86, title II, §§ 201(a), 202(a), Aug. 14, 1991, 105 Stat. 415, 416; Pub. L. 103–446, title XII, § 1201(i)(2), Nov. 2, 1994, 108 Stat. 4688; Pub. L. 106–419, title III, § 311(a), Nov. 1, 2000, 114 Stat. 1854.)

REFERENCES IN TEXT

Section 602(n) of the National Service Life Insurance Act of 1940, referred to in subsec. (a), is section 602(n) of act Oct. 8, 1940, ch. 757, title VI, pt. I, 54 Stat. 1009, which enacted section 802(n) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 712 [now 1912] of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

Section 620 of the National Service Life Insurance Act of 1940, referred to in subsec. (b)(1), is section 620 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 821 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–419 added subsec. (c).

1994—Subsec. (b)(4). Pub. L. 103–446 substituted ''Notwithstanding section 1917 of this title,'' for ''Notwithstanding the provisions of section 1917 of this title,''.

1991—Pub. L. 102–83, § 5(a), renumbered section 722 of this title as this section.

Subsec. (a). Pub. L. 102–86, § 201(a), amended subsec. (a) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''two years'' for ''one year'' wherever appearing and ''two-year'' for ''one-year''.

Pub. L. 102–83, § 5(c)(1), substituted ''1912'' for ''712''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in four places.

Pub. L. 102–83, § 4(a)(2)(A)(iii)(IV), substituted ''Secretary'' for ''Veterans' Administration'' after first reference to ''determined by the''.

Subsec. (b)(1). Pub. L. 102–86, § 201(a), amended subsec. (b)(1) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by substituting ''two-year'' for ''one-year'' and ''two years'' for ''one year''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(2)(A)(iii)(IV), substituted ''Secretary'' for ''Veterans' Administration'' in two places.

Subsec. (b)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(2)(D)(i), substituted ''with the Secretary'' for ''in the Veterans' Administration''.

Subsec. (b)(4). Pub. L. 102–86, § 202(a)(1), amended subsec. (b) of this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by amending par. (4) generally. Prior to amendment, par. (4) read as follows: ''Notwithstanding the provisions of section 717 of this title, insurance under this subsection shall be payable at the election of the first beneficiary in 240 equal monthly installments or under the options specified in section 717(b)(3) or (4) of this title. Any installments certain of insurance remaining unpaid at the death of any beneficiary shall be paid in equal monthly installments in an amount equal to the monthly installments paid to the first beneficiary, to the person or persons then in being within the classes specified in subsection (b)(2) of this section and in the order named.''

Pub. L. 102–83, § 5(c)(1), amended par. (4) as amended by Pub. L. 102–86, § 202(a)(1), by substituting ''1917'' for ''717''. See above.

Subsec. (b)(5). Pub. L. 102–86, § 202(a)(2), amended subsec. (b) of this section as in effect before the redesignations by Pub. L. 102–83, § 5, by striking out par. (5) which read as follows: ''The right of any beneficiary to payment of any installments shall be conditioned upon his or her being alive to receive such payments. No person shall have a vested right to any installment or installments of any such insurance and any installments not paid to a beneficiary during such beneficiary's lifetime shall be paid to the beneficiary or beneficiaries within the permitted class next entitled to priority, as provided in subsection (b)(2) of this section. No installments of such insurance shall be paid to the heirs or legal representatives as such of the insured or of any beneficiary, and if no person within the permitted class survives to receive the insurance or any part thereof no payment of the unpaid installments shall be made.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 201(b) of Pub. L. 102–86 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to any person who, on or after September 1, 1991, is found by the Secretary of Veterans Affairs to be eligible for insurance under section 722 [now 1922] of title 38, United States Code.''

Section 202(b) of Pub. L. 102–86 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to deaths occurring before, on, or after the date of the enactment of this Act [Aug. 14, 1991]. In the case of insurance under section 722(b) [now 1922(b)] of title 38, United States Code, payable by reason of a death before the date of the enactment of this Act, the Secretary shall pay the remaining balance of such insurance in a lump sum as soon as practicable after the date of the enactment of this Act.''

§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title, whichever is later.

(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insur-

ance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.

(Added Pub. L. 102–568, title II, § 203(a), Oct. 29, 1992, 106 Stat. 4324; amended Pub. L. 103–446, title XII, § 1201(f)(1), Nov. 2, 1994, 108 Stat. 4687.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–446 substituted ''insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary'' for ''insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department''.

EFFECTIVE DATE

Section 205 of title II of Pub. L. 102–568 provided that: ''The amendments made by this title [enacting this section and amending sections 1967, 1977, and 2106 of this title] shall take effect on December 1, 1992.''

§ 1923. Veterans' Special Life Insurance

(a) Insurance heretofore granted under the provisions of section 621 of the National Service Life Insurance Act of 1940, against the death of the policyholder occurring while such insurance is in force, is subject to the same terms and conditions as are contained in standard policies of National Service Life Insurance on the five-year level premium term plan except (1) such insurance may not be exchanged for or converted to insurance on any other plan; (2) the premium rates for such insurance shall be based on the Commissioners 1941 Standard Ordinary Table of Mortality and interest at the rate of 2¼ per centum per annum; (3) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2¼ per centum per annum; (4) all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums, and for the reimbursement of administrative costs under subsection (d).

(b) Any term insurance heretofore issued under section 621 of the National Service Life Insurance Act of 1940, may be converted to a permanent plan of insurance or exchanged for a policy of limited convertible five-year level premium term insurance issued under this subsection. Insurance issued under this subsection shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) after September 1, 1960, limited convertible term insurance may not be issued or renewed on the term plan after the insured's fiftieth birthday; (2) the premium rates for such limited convertible term or permanent plan insurance shall be based on table X–18 (1950–54 Intercompany Table of Mortality) and interest at the rate of 2½ per centum per annum; (3) all settlements on policies involving annuities on insurance issued under this subsection shall be calculated on the basis of The Annuity Table for 1949, and interest at the rate of 2½ per centum per annum; (4) all cash, loan, paid-up, and extended values, and, except as otherwise provided in this subsection, all other calculations in connection with insurance issued under this subsection shall be based on table X–18 (1950–54 Intercompany Table of Mortality) and interest at the rate of 2½ per centum per annum; (5) all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums.

(c) The Secretary is authorized to invest in, and the Secretary of the Treasury is authorized to sell and retire, special interest-bearing obligations of the United States for the account of the revolving fund with a maturity date as may be agreed upon by the two Secretaries. The rate of interest on such obligations shall be fixed by the Secretary of the Treasury at a rate equal to the rate of interest, computed as of the end of the month preceding the date of issue of such obligations, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of five years from the date of original issue; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such average rate.

(d)(1) For each fiscal year for which this subsection is in effect, the Secretary shall, from the Veterans' Special Life Insurance Fund, reimburse the ''General operating expenses'' account of the Department for the amount of administrative costs determined under paragraph (2) for that fiscal year. Such reimbursement shall be made from any surplus earnings for that fiscal year that are available for dividends on such insurance after claims have been paid and actuarially determined reserves have been set aside. However, if the amount of such administrative costs exceeds the amount of such surplus earnings, such reimbursement shall be made only to the extent of such surplus earnings.

(2) The Secretary shall determine the administrative costs to the Department for a fiscal year for which this subsection is in effect which, in the judgment of the Secretary, are properly allocable to the provision of Veterans' Special Life Insurance (and to the provision of any total disability income insurance added to the provision of such insurance).

(3) This subsection shall be in effect only with respect to fiscal year 1996.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1157, § 723; Pub. L. 85–896, Sept. 2, 1958, 72 Stat. 1716; Pub. L.

87–223, Sept. 13, 1961, 75 Stat. 495; Pub. L. 93–289, § 2(a), May 24, 1974, 88 Stat. 165; renumbered § 1923 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(C), (E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–99, title II, § 201(b), Jan. 26, 1996, 110 Stat. 36.)

REFERENCES IN TEXT

Section 621 of the National Service Life Insurance Act of 1940, referred to in subsecs. (a) and (b), is section 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 822 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

CODIFICATION

Amendment by Pub. L. 104–99 is based on section 107(2) of H.R. 2099, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 7, 1995, which was enacted into law by Pub. L. 104–99.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–99 inserted ", and for the reimbursement of administrative costs under subsection (d)" before period at end.

Subsec. (d). Pub. L. 104–99 added subsec. (d).

1991—Pub. L. 102–83, § 5(a), renumbered section 723 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 4(b)(2)(C), substituted "two Secretaries" for "Administrator and Secretary".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" after "The".

1974—Pub. L. 93–289, § 2(a)(1), substituted "Veterans' Special Life Insurance" for "Veterans' special term insurance" in section catchline.

Subsec. (a). Pub. L. 93–289, § 2(a)(2), substituted "all premiums and other collections on such insurance and any total disability provisions added thereto shall be credited to a revolving fund in the Treasury of the United States, which, together with interest earned thereof, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums" for "such insurance and any total disability provision added thereto shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited to a revolving fund in the Treasury of the United States and the payments on such term insurance and any total disability provision added thereto shall be made directly from such fund" in cl. (4).

Subsec. (b). Pub. L. 93–289, § 2(a)(3), substituted "all premiums and other collections on insurance issued under this subsection and any total disability income provisions added thereto shall be credited directly to the revolving fund referred to in subsection (a) of this section, which together with interest earned thereon, shall be available for the payment of liabilities under such insurance and any total disability provisions added thereto, including payments of dividends and refunds of unearned premiums" for "insurance and any total disability provision added thereto issued under this subsection shall be on a nonparticipating basis and all premiums and other collections therefor shall be credited directly to the revolving fund referred to in subsection (a) and payments on such insurance and any total disability provision added thereto shall be made directly from such fund" in cl. (5).

Subsecs. (d), (e). Pub. L. 93–289, § 2(a)(4), repealed subsecs. (d) and (e) which related to the payment of dividends from the excess funds in the revolving fund, and to the transfer of funds from the revolving fund to general fund receipts in the Treasury.

1961—Subsecs. (d), (e). Pub. L. 87–223 added subsecs. (d) and (e).

1958—Subsec. (b). Pub. L. 85–896, § 1(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 85–896, § 1(1), redesignated former subsec. (b) as (c) and substituted "equal to the rate of interest, computed as of the end of the month preceding the date of issue of such obligations, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt that are not due or callable until after the expiration of five years from the date of original issue; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligations shall be the multiple of one-eighth of 1 per centum nearest such average rate" for "not exceeding the average interest rate on all marketable obligations of the United States Treasury outstanding as of the end of the month preceding the date of issue of this special obligation".

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(1) of Pub. L. 93–289 provided that: "The amendments made by section 2 [amending this section], relating to Veterans' Special Life Insurance, shall become effective upon the date of enactment of this Act [May 24, 1974] except that no dividend on such insurance shall be paid prior to January 1, 1974."

§ 1924. In-service waiver of premiums

(a) Waiver of all premiums on five-year level premium term insurance and that portion of any permanent insurance premiums representing the cost of the pure insurance risk, as determined by the Secretary, granted on National Service Life Insurance or United States Government life insurance under section 622 of the National Service Life Insurance Act of 1940 and in effect on January 1, 1959, shall, unless canceled, continue in effect according to the provisions of such section for the remainder of the insured's continuous active service and for one hundred and twenty days thereafter. Such premium waiver renders the contract of insurance nonparticipating during the period the waiver is in effect.

(b) Whenever benefits become payable because of the maturity of such insurance while under the premium waiver continued by this section, liability for payment of such benefits shall be borne by the United States in an amount which, when added to any reserve of the policy at the time of maturity, will equal the then value of such benefits under such policy. Where life contingencies are involved in the calculation of the value of such benefits, the calculation of such liability or liabilities shall be based upon such mortality table or tables as the Secretary may prescribe with interest at the rate of 2¼ per centum per annum as to insurance issued under sections 620 and 621 of the National Service Life Insurance Act of 1940, at the rate of 3 per centum per annum as to other National Service Life Insurance, and 3½ per centum per annum as to United States Government life insurance. The Secretary shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to carry out the provisions of this section.

(c) In any case in which insurance continued in force under this section matures on or after January 1, 1972, an amount equal to the amount of premiums, less dividends, waived on and after

that date shall be placed as an indebtedness against the insurance and, unless otherwise paid, shall be deducted from the proceeds. In such case, the liability of the Government under subsection (b) of this section shall be reduced by the amount so deducted from the proceeds.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1157, § 724; Pub. L. 92–197, § 7, Dec. 15, 1971, 85 Stat. 662; renumbered § 1924 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 622 of the National Service Life Insurance Act of 1940, referred to in subsec. (a), is section 622 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted section 823 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

Sections 620 and 621 of the National Service Life Insurance Act of 1940, referred to in subsec. (b), are sections 620 and 621 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Apr. 25, 1951, ch. 39, pt. II, § 10, 65 Stat. 36, which enacted sections 821 and 822 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which were repealed and reenacted as sections 722 and 723 [now 1922 and 1923], respectively, of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 724 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (a) and (b).

1971—Subsec. (c). Pub. L. 92–197 added subsec. (c).

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

§ 1925. Limited period for acquiring insurance

(a) Any person (other than a person referred to in subsection (f) of this section) heretofore eligible to apply for National Service Life Insurance after October 7, 1940, and before January 1, 1957, who is found by the Secretary to be suffering (1) from a service-connected disability or disabilities for which compensation would be payable if 10 percent or more in degree and except for which such person would be insurable according to the standards of good health established by the Secretary; or (2) from a non-service-connected disability which renders such person uninsurable according to the standards of good health established by the Secretary and such person establishes to the satisfaction of the Secretary that such person is unable to obtain commercial life insurance at a substandard rate, shall, upon application in writing made before May 2, 1966, compliance with the health requirements of this section and payment of the required premiums, be granted insurance under this section.

(b) If, notwithstanding the applicant's service-connected disability, such person is insurable according to the standards of good health established by the Secretary, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in the standard policies of National Service Life Insurance except (1) five-year level premium term insurance may not be issued; (2) the net premium rates shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table, increased at the time of issue by such an amount as the Secretary determines to be necessary for sound actuarial operations, and thereafter such premiums may be adjusted as the Secretary determines to be so necessary but at intervals of not less than two years; (3) an additional premium to cover administrative costs to the Government as determined by the Secretary at times of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto, and thereafter such costs may be adjusted as the Secretary determines to be necessary but at intervals of not less than five years; (4) all cash, loan, extended and paid-up insurance values shall be based on the 1958 Commissioners Standard Ordinary Basic Mortality Table; (5) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table for 1949; (6) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ percent per annum; and (7) the insurance shall include such other changes in terms and conditions as the Secretary determines to be reasonable and practicable.

(c) If the applicant's service-connected disability or disabilities render the applicant uninsurable according to the standards of good health established by the Secretary, or if the applicant has a non-service-connected disability which renders the applicant uninsurable according to the standards of good health established by the Secretary and such person establishes to the satisfaction of the Secretary that such person is unable to obtain commercial life insurance at a substandard rate and such uninsurability existed as of the date of approval of this section, the insurance granted under this section shall be issued upon the same terms and conditions as are contained in standard policies of National Service Life Insurance, except (1) five-year level premium term insurance may not be issued; (2) the premiums charged for the insurance issued under this subsection shall be increased at the time of issue by such an amount as the Secretary determines to be necessary for sound actuarial operations and thereafter such premiums may be adjusted from time to time as the Secretary determines to be necessary; for the purpose of any increase at time of issue or later adjustment the service-connected group and the non-service-connected group may be separately classified; (3) an additional premium to cover administrative costs to the Government as determined by the Secretary at the time of issue shall be charged for insurance issued under this subsection and for any total disability income provision attached thereto (for which the insured may subsequently become eligible) and thereafter such costs may be adjusted as the Secretary determines to be necessary but at intervals of not less than five years and for this purpose the service-connected and non-service-connected can be separately classified; (4) all settlements on policies involving annuities shall be calculated on the basis of The Annuity Table

for 1949; (5) all calculations in connection with insurance issued under this subsection shall be based on interest at the rate of 3½ percent per annum; and (6) the insurance shall include such other changes in terms and conditions as the Secretary determines to be reasonable and practicable.

(d)(1) All premiums and collections on insurance issued pursuant to this section and any total disability income provision attached thereto shall be credited to the Veterans Reopened Insurance Fund, a revolving fund established in the Treasury of the United States, and all payments on such insurance and any total disability provision attached thereto, including payments of dividends and refunds of unearned premiums, shall be made from that fund and the interest earned on the assets of that fund. For actuarial and accounting purposes, the assets and liabilities (including liabilities for repayment of advances hereinafter authorized, and adjustment of premiums) attributable to the insured groups established under this section shall be separately determined. Such amounts in the Veterans Special Term Insurance Fund in the Treasury, not exceeding $1,650,000 in the aggregate, as may hereafter be determined by the Secretary to be in excess of the actuarial liabilities of that fund, including contingency reserves, shall be available for transfer to the Veterans Reopened Insurance Fund as needed to provide initial capital. Any amounts so transferred shall be repaid to the Treasury over a reasonable period of time with interest as determined by the Secretary of the Treasury taking into consideration the average yield on all marketable interest-bearing obligations of the United States of comparable maturities then forming a part of the public debt.

(2) The Secretary is authorized to set aside out of the revolving fund established under this section such reserve amounts as may be required under accepted actuarial principles to meet all liabilities on insurance issued under this section and any total disability income provision attached thereto. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 percent, the rate of interest of such obligation shall be the multiple of one-eighth of 1 percent nearest such market yield.

(3) Notwithstanding the provisions of section 1982 of this title, the Secretary shall, from time to time, determine the administrative costs to the Government which in the Secretary's judgment are properly allocable to insurance issued under this section and any total disability income provision attached thereto, and shall transfer from the revolving fund, the amount of such cost allocable to the Department to the appropriation ''General Operating Expenses, Department of Veterans Affairs'', and the remainder of such cost to the general fund receipts in the Treasury. The initial administrative costs of issuing insurance under this section and any total disability income provision attached thereto shall be so transferred over such period of time as the Secretary determines to be reasonable and practicable.

(e) Notwithstanding the provisions of section 1982 of this title, a medical examination (including any supplemental examination or tests) when required of an applicant for issuance of insurance under this section or any total disability income provisions attached thereto shall be at the applicant's own expense by a duly licensed physician.

(f) No insurance shall be granted under this section to any person referred to in section 107 of this title or to any person while on active duty or active duty for training under a call or order to such duty for a period of thirty-one days or more.

(Added Pub. L. 88–664, § 12(a), Oct. 13, 1964, 78 Stat. 1096, § 725; amended Pub. L. 89–40, June 14, 1965, 79 Stat. 130; Pub. L. 96–128, title III, § 301, Nov. 28, 1979, 93 Stat. 985; Pub. L. 97–295, § 4(25), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 99–576, title VII, § 701(28), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1925 and amended Pub. L. 102–83, §§ 4(a)(2)(B)(ii), (3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 725 of this title as this section.

Subsecs. (a) to (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1982'' for ''782'' in par. (3).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing in pars. (1) to (3).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for first reference to ''Veterans' Administration'' in par. (3).

Pub. L. 102–83, § 4(a)(2)(B)(ii), substituted ''Department of Veterans Affairs'' for second reference to ''Veterans' Administration'' in par. (3).

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1982'' for ''782''.

1986—Subsecs. (a), (b). Pub. L. 99–576, § 701(28)(A), substituted ''such person'' for ''he''.

Subsec. (c). Pub. L. 99–576, § 701(28)(A), (B), substituted ''the applicant'' for ''him'' in two places, and ''such person'' for ''he''.

Subsec. (d)(3). Pub. L. 99–576, § 701(28)(C), substituted ''the Administrator's'' for ''his''.

1982—Subsec. (a). Pub. L. 97–295, § 4(25), substituted ''percent'' for ''per centum'', and substituted ''before May 2, 1966'' for ''within one year after the effective date of this section''.

Subsecs. (b), (c), (d)(2). Pub. L. 97–295, § 4(25)(A), substituted ''percent'' for ''per centum'' wherever appearing.

1979—Subsec. (b). Pub. L. 96–128, § 301(a), struck out cl. (8) which required the insurance and any attached total disability income provision to be on a nonparticipatory basis.

Subsec. (c). Pub. L. 96–128, § 301(b), struck out cl. (4) which required the insurance and any attached total

disability income provision to be on a nonparticipatory basis, and redesignated former cls. (5) to (7) as (4) to (6), respectively.

Subsec. (d)(1). Pub. L. 96–128, § 301(c), inserted provisions respecting payments of dividends and refunds of unearned premiums from the fund, and interest earned on the assets of the fund.

1965—Subsec. (b). Pub. L. 89–40, § 1(1), struck out provision from cl. (8) which called for all premiums and other collections for insurance granted under this section to be credited to a revolving fund established in the Treasury of the United States and for payment on such insurance or total disability income provisions to be made directly from that fund.

Subsec. (c). Pub. L. 89–40, § 1(2), struck out cl. (8) which provided that all premiums and other collections on the insurance and any total disability income provision attached thereto should be credited to the National Service Life Insurance appropriation, and the payments on such insurance and total disability income provisions should be made directly from such appropriations, and struck out sentence which authorized necessary appropriations.

Subsec. (d)(1). Pub. L. 89–40, § 1(3), struck out provisions authorizing appropriations to carry out the purposes of subsec. (b) of this section by adding to the revolving fund as needed at interest to be determined by the Secretary of the Treasury, and substituted therefor provisions requiring credit to Veterans Reopened Insurance Fund of all premiums and collections on insurance issued pursuant to this section and disbursements from that fund of all payments on insurance and total disability provisions attached thereto, separate determination for actuarial purposes of the various insured groups under this section, transfer to fund from Veterans Special Term Insurance Fund to provide initial capital of excess funds not exceeding $1,650,000, and repayment over a reasonable time at interest to be determined by the Secretary of the Treasury.

Subsec. (d)(2). Pub. L. 89–40, § 1(4), struck out reference to subsec. (b) of this section.

Subsec. (d)(3). Pub. L. 89–40, § 1(5), struck out reference to National Service Life Insurance appropriation.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89–40 provided that the amendment made by Pub. L. 89–40 is effective May 1, 1965.

EFFECTIVE DATE

Section 12(d) of Pub. L. 88–664 provided that: "The amendments made by this section [enacting this section and amending section 704 [now 1904] of this title] shall take effect as of the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act [Oct. 13, 1964]."

§ 1926. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding sections 1902, 1923, and 1925 of this title, if the beneficiary of an insurance policy receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in the appropriate section of this subchapter. The Secretary may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound for the program of insurance concerned. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

(Added Pub. L. 96–128, title III, § 302(a), Nov. 28, 1979, 93 Stat. 986, § 726; renumbered § 1926 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 726 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted "1902, 1923, and 1925" for "702, 723, and 725".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

EFFECTIVE DATE

Section effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as an Effective Date of 1979 Amendment note under section 1114 of this title.

§ 1927. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Secretary may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Secretary may make such an adjustment only if the Secretary determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Secretary may make such an adjustment without regard to the provisions of sections 1902, 1923, and 1925 of this title with respect to interest rates and the use of mortality tables.

(b) The Secretary shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in sections 1902, 1923, and 1925 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

(Added Pub. L. 100–322, title III, § 331(a)(1), May 20, 1988, 102 Stat. 536, § 727; renumbered § 1927 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 727 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "1902, 1923, and 1925" for "702, 723, and 725".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1902, 1923, and 1925'' for ''702, 723, and 725''.

§ 1928. Authority for payment of interest on settlements

(a) Subject to subsection (b) of this section, the Secretary may pay interest on the proceeds of a participating National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

(b)(1) The Secretary may pay interest under subsection (a) of this section only if the Secretary determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

(2) Interest paid under subsection (a) of this section shall be at the rate that is established by the Secretary for dividends held on credit or deposit in policyholders' accounts under the insurance program involved.

(Added Pub. L. 100–687, div. B, title XIV, § 1401(a)(1), Nov. 18, 1988, 102 Stat. 4128, § 728; renumbered § 1928 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 728 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section 1401(a)(3) of Pub. L. 100–687 provided that: ''The amendments made by this subsection [enacting this section and section 763 [now 1963] of this title] shall take effect with respect to insurance policies maturing after the date of the enactment of this Act [Nov. 18, 1988].''

§ 1929. Authority to adjust premium discount rates

(a) Notwithstanding sections 1902, 1923, and 1925 of this title and subject to subsection (b) of this section, the Secretary may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance.

(b)(1) In adjusting a discount rate pursuant to subsection (a) of this section, the Secretary may not set such rate at a rate lower than the rate authorized for the program of insurance involved under section 1902, 1923, or 1925 of this title.

(2) The Secretary may make an adjustment under subsection (a) of this section only if the Secretary determines that the adjustment is administratively and actuarially sound for the program of insurance involved.

(Added Pub. L. 100–687, div. B, title XIV, § 1401(b)(1), Nov. 18, 1988, 102 Stat. 4129, § 729; renumbered § 1929 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 729 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1902, 1923, and 1925'' for ''702, 723, and 725'' in subsec. (a) and ''1902, 1923, or 1925'' for ''702, 723, or 725'' in subsec. (b)(1).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section 1401(b)(2) of Pub. L. 100–687 provided that: ''The amendment made by paragraph (1) [enacting this section] shall take effect with respect to premiums paid after the date of the enactment of this Act [Nov. 18, 1988].''

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

§ 1940. Definition

For the purposes of this subchapter, the term ''insurance'' means United States Government life insurance.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158, § 740; renumbered § 1940, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 740 of this title as this section.

§ 1941. Amount of insurance

United States Government life insurance shall be issued against death or total permanent disability in any multiple of $500 and not less than $1,000 or more than $10,000. No person may carry a combined amount of National Service Life Insurance and United States Government life insurance in excess of $10,000 at any one time. The limitations of this section shall not apply to the additional paid up insurance the purchase of which is authorized under section 1907 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158, § 741; Pub. L. 92–188, § 1, Dec. 15, 1971, 85 Stat. 645; renumbered § 1941 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 741 of this title as this section and substituted ''1907'' for ''707''.

1971—Pub. L. 92–188 made section limitations inapplicable to the additional paid up insurance purchase of which is authorized under section 707 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–188 effective on date established by Administrator but in no event later than first day of first calendar month beginning more than six calendar months after Dec. 15, 1971, see section 4 of Pub. L. 92–188, set out as a note under section 1907 of this title.

§ 1942. Plans of insurance

(a) Regulations shall provide for the right to convert insurance on the five-year level premium term plan into ordinary life, twenty-payment life, endowment maturing at age sixty-two, and into other usual forms of insurance as may be prescribed by the Secretary. Provision shall be made for reconversion of any such policies to a higher premium rate or, upon proof of

good health satisfactory to the Secretary, to a lower premium rate, in accordance with regulations to be issued by the Secretary. No reconversion shall be made to a five-year level premium term policy.

(b) An insured who on or after the insured's sixty-fifth birthday has a five-year level premium term policy of insurance in force by payment of premiums may exchange such policy for insurance on a special endowment at age ninety-six plan upon written application; payment of the required premium; and surrender of the five-year level premium term policy and any total disability provision attached thereto with all rights, title, and interests thereunder. However, if it is found by the Secretary subsequent to the exchange that prior thereto the term policy matured because of total permanent disability of the insured or that the insured was entitled to total disability benefits under the total disability provision attached to such policy, the insured, upon surrender of the special endowment at age ninety-six policy and any provision for waiver of premiums issued under subsection (c) of this section with all rights, title, and interest thereunder, will be entitled to benefits payable under the prior contract. In such case, the cash value less any indebtedness on the endowment policy shall be refunded together with any premiums paid on a provision for waiver of premiums. Insurance on the special endowment at age ninety-six plan shall be issued at the attained age of the insured upon the same terms and conditions as are contained in standard policies of United States Government Life Insurance except:

(1) the insurance shall not mature and no benefits shall be paid thereunder because of total permanent disability;

(2) the premiums for such insurance shall be as prescribed by the Secretary;

(3) such insurance cannot be exchanged, converted, or reconverted to any other plan of insurance;

(4) all cash, loan, paid-up, and extended term insurance values shall be as prescribed by the Secretary; and

(5) the insurance shall be subject to such other changes in terms and conditions as the Secretary determines to be reasonable and practicable.

(c) The Secretary shall, upon application made by the insured at the same time as the insured exchanges the term policy for an endowment policy issued under the provisions of subsection (b) of this section, and upon payment of such extra premium as the Secretary shall prescribe, include in such endowment policy a provision for waiver of premiums on the policy and on the provision during the total permanent disability of the insured, if such disability began after the date of such application and while the policy and the provision are in force by payment of premiums. The Secretary shall not grant waiver of any premium becoming due more than one year before receipt by the Secretary of claim for the same, except as provided in this subsection. Any premiums paid for months during which waiver is effective shall be refunded. The Secretary shall provide by regulations for examination or reexamination of an insured claiming waiver of premiums under this subsection, and may deny waiver for failure to cooperate. If it is found that an insured is no longer totally and permanently disabled, the waiver of premiums shall cease as of the date of such finding and the policy and provision may be continued by payment of premiums as provided therein. In any case in which the Secretary finds that the insured's failure to make timely claim for waiver of premiums, or to submit satisfactory evidence of the existence or continuance of total permanent disability was due to circumstances beyond the insured's control, the Secretary may grant waiver or continuance of waiver of premiums. If the insured dies without filing claim for waiver, the beneficiary, within one year after the death of the insured, or, if the beneficiary is insane or a minor, within one year after removal of such legal disability, may file claim for waiver with evidence of the insured's right to waiver under this subsection. Policies containing a provision for waiver of premiums issued under this subsection may be separately classified for the purpose of dividend distribution from otherwise similar policies not containing such provision.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158, § 742; Pub. L. 87–549, July 25, 1962, 76 Stat. 219; Pub. L. 99–576, title VII, § 701(29), Oct. 28, 1986, 100 Stat. 3292; renumbered § 1942 and amended Pub. L. 102–83, §§ 4(a)(2)(C)(iii), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 742 of this title as this section.

Subsecs. (a), (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Pub. L. 102–83, § 4(a)(2)(C)(iii), substituted "by the Secretary" for "in the Veterans' Administration".

1986—Subsec. (b). Pub. L. 99–576, § 701(29)(A), substituted "the insured's" for "his" and "the insured" for "he".

Subsec. (c). Pub. L. 99–576, § 701(29)(B), substituted "the insured" for "he", "the term" for "his term", and "the insured's control" for "his control", and struck out "his failure" before "to submit".

1962—Pub. L. 87–549 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

§ 1943. Premiums

The premium rates for insurance shall be the net rates based upon the American Experience Table of Mortality and interest at 3½ percent per annum. Regulations shall prescribe the time and method of payment of premiums, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at the insured's election.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158, § 743; Pub. L. 97–295, § 4(26), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, § 701(30), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1943, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 743 of this title as this section.

1986—Pub. L. 99–576 substituted ''the insured's'' for ''his''.

1982—Pub. L. 97–295 substituted ''percent'' for ''per centum''.

§ 1944. Policy provisions

(a) Provisions for maturity at certain ages, for continuous installments during the lifetime of the insured or beneficiaries, or both, for refund of premiums, cash, loan, paid-up and extended values, dividends from gains and savings, and such other provisions for the protection and advantage of and for alternative benefits to the insured and the beneficiaries as may be found to be reasonable and practicable may be provided for in insurance contracts or from time to time by regulations.

(b) All calculations on insurance shall be based upon the American Experience Table of Mortality and interest at 3½ percent per annum, except that no deduction shall be made for continuous installments during the life of the insured in case the insured's total and permanent disability continues more than two hundred and forty months.

(c) On and after July 19, 1939, the rate of interest charged on any loan secured by a lien on insurance shall not exceed 5 percent per annum.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1158, § 744; Pub. L. 97–295, § 4(26), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, § 701(30), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1944, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 744 of this title as this section.

1986—Subsec. (b). Pub. L. 99–576 substituted ''the insured's'' for ''his''.

1982—Subsecs. (b), (c). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

§ 1945. Renewal

At the expiration of any term period any insurance policy issued on the five-year level premium term plan which has not been exchanged or converted to a permanent plan of insurance and which is not lapsed shall be renewed as level premium term insurance without application for a successive five-year period at the premium rate for the attained age without medical examination. However, renewal shall be effected in cases where the policy is lapsed only if the insured makes application for reinstatement and renewal of the insured's term policy within five years after the date of lapse, and reinstatement in such cases shall be under the terms and conditions prescribed by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159, § 745; Pub. L. 91–291, § 11, June 25, 1970, 84 Stat. 331; Pub. L. 99–576, title VII, § 701(30), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1945 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 745 of this title as this section and substituted ''Secretary'' for ''Administrator''.

1986—Pub. L. 99–576 substituted ''the insured's'' for ''his''.

1970—Pub. L. 91–291 struck out effective date provision for renewal of policies, provisions that, in case of lapsed policies, such lapse have occurred within two months before the expiration of the term period, special provisions for the interim period between July 23, 1953 and December 31, 1953, and provisions that the section take effect on Sept. 2, 1958, and required that the insurer make application for reinstatement and renewal of his term policy within five years after the date of the lapse.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

§ 1946. Dividends to pay premiums

Until and unless the Secretary has received from the insured a request in writing for payment of dividends in cash or that the dividends be placed on deposit in accordance with the provisions of the insured's policy, any regular annual dividends shall be applied in payment of premiums becoming due on insurance after the date the dividend is payable on or after December 31, 1958.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159, § 746; Pub. L. 99–576, title VII, § 701(30), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1946 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iii)(V), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 746 of this title as this section and substituted ''Secretary'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''the insured's'' for ''his''.

§ 1947. Incontestability

Subject to the provisions of section 1954 of this title all contracts or policies of insurance heretofore or hereafter issued, reinstated, or converted shall be incontestable from the date of issuance, reinstatement, or conversion, except for fraud, nonpayment of premiums, or on the ground that the applicant was not a member of the military or naval forces of the United States. The insured under such contract or policy may, without prejudicing the insured's rights, elect to make claim to the Department or to bring suit under section 1984 of this title on any prior contract or policy, and if found entitled thereto, shall, upon surrender of any subsequent contract or policy, be entitled to payments under the prior contract or policy. In any case in which a contract or policy of insurance is canceled or voided after March 16, 1954, because of fraud, the Secretary shall refund to the insured, if living, or, if deceased, to the person designated as beneficiary (or if none survives, to the estate of the insured) all money, without interest, paid as premiums on such contract or policy for any period subsequent to two years after the date such fraud induced the Secretary to issue, reinstate, or convert such insurance less any dividends, loan, or other payment made to the insured under such contract or policy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159, § 747; Pub. L. 99–576, title VII, § 701(30), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1947 and amended Pub.

L. 102–83, §§4(a)(2)(A)(iii)(VI), (3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, §5(a), renumbered section 747 of this title as this section.

Pub. L. 102–83, §5(c)(1), substituted ''1954'' for ''754'' and ''1984'' for ''784''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''shall'' in last sentence.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, §4(a)(2)(A)(iii)(VI), substituted ''Secretary'' for ''Veterans' Administration'' before ''to issue'' in last sentence.

1986—Pub. L. 99–576 substituted ''the insured's'' for ''his''.

§ 1948. Total disability provision

The Secretary shall include in United States Government life insurance policies provision whereby an insured, who is totally disabled as a result of disease or injury for a period of four consecutive months or more before attaining the age of sixty-five years and before default in payment of any premium, shall be paid disability benefits at the rate of $5.75 monthly for each $1,000 of insurance in force when total disability benefits become payable. The amount of such monthly payment under the provisions of this section shall not be reduced because of payment of permanent and total disability benefits under the insurance policy. Such payments shall be effective as of the first day of the fifth consecutive month, and shall be made monthly during the continuance of such total disability. Such payments shall be concurrent with or independent of permanent and total disability benefits under the insurance policy. In addition to the monthly disability benefits the payment of premiums on the life insurance and for the total disability benefits authorized by this section shall be waived during the continuance of such total disability. Regulations shall provide for reexaminations of beneficiaries under this section; and, in the event that it is found that an insured is no longer totally disabled, the waiver of premiums and payment of benefits shall cease and the insurance policy, including the total disability provision, may be continued by payment of premiums as provided in said policy and the total disability provision. Neither the dividends nor the amount payable in any settlement under any United States Government life insurance policy shall be decreased because of disability benefits granted under the provisions of this section. The payment of total disability benefits shall not prejudice the right of any insured, who is totally and permanently disabled, to permanent and total disability benefits under the insured's insurance policy. The provision authorized by this section shall not be included in any United States Government life insurance policy heretofore or hereafter issued, except upon application, payment of premium by the insured, and proof of good health satisfactory to the Secretary. The benefit granted under this section shall be on the basis of multiples of $500, and not less than $1,000 or more than the amount of insurance in force at time of application. The Secretary shall determine the amount of the monthly premium to cover the benefits of this section, and in order to continue such benefits in force the monthly premiums shall be payable until the insured attains the age of sixty-five years or until the prior maturity of the policy. In all other respects such monthly premium shall be payable under the same terms and conditions as the regular monthly premium on the United States Government life insurance policy.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1159, §748; Pub. L. 97–295, §4(27), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, §701(30), Oct. 28, 1986, 100 Stat. 3293; renumbered §1948 and amended Pub. L. 102–83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 748 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the insured's'' for ''his''.

1982—Pub. L. 97–295 substituted ''premium'' for ''permium'' after ''payment of''.

§ 1949. Change of beneficiary

Subject to regulations, the insured shall at all times have the right to change the beneficiary or beneficiaries of a United States Government life insurance policy without the consent of such beneficiary or beneficiaries.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1160, §749; renumbered §1949, Pub. L. 102–83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 749 of this title as this section.

§ 1950. Payment to estates

If no beneficiary of insurance is designated by the insured, either while alive or by last will, or if the designated beneficiary does not survive the insured, then there shall be paid to the estate of the insured the present value of the remaining unpaid monthly installments. If the designated beneficiary survives the insured and dies before receiving all of the installments of insurance payable and applicable, then there shall be paid to the estate of such beneficiary the present value of the remaining unpaid monthly installments. No payments shall be made to any estate which under the laws of the residence of the insured or the beneficiary, as the case may be, would escheat, but same shall escheat to the United States and be credited to the United States Government Life Insurance Fund.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1160, §750; Pub. L. 99–576, title VII, §701(31), Oct. 28, 1986, 100 Stat. 3293; renumbered §1950, Pub. L. 102–83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 750 of this title as this section.

1986—Pub. L. 99–576 substituted ''while alive or by last will'' for ''in his lifetime or by his last will and testament''.

§ 1951. Payment of insurance

United States Government life insurance, except as provided in this subchapter, shall be payable in two hundred and forty equal monthly installments. When the amount of an individual monthly payment is less than $5, such amount may in the discretion of the Secretary be allowed to accumulate without interest and be disbursed annually.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161, § 751; renumbered § 1951 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 751 of this title as this section and substituted ''Secretary'' for ''Administrator''.

§ 1952. Optional settlement

(a) The Secretary may provide in insurance contracts for optional settlements, to be selected by the insured, whereby such insurance may be made payable either in one sum or in installments for thirty-six months or more. A provision may also be included in such contracts authorizing the beneficiary to elect to receive payment of the insurance in installments for thirty-six months or more, but only if the insured has not exercised the right of election as provided in this subchapter. Even though the insured may have exercised the right of election the beneficiary may elect to receive such insurance in installments spread over a greater period of time than that selected by the insured. Notwithstanding any provision to the contrary in any insurance contract, the beneficiary may, in the case of insurance maturing after September 30, 1981, and for which the insured has not exercised the right of election of the insured as provided in this subchapter, elect to receive payment of the insurance in one sum.

(b) Under such regulations as the Secretary may promulgate, the cash surrender value of any policy of insurance or the proceeds of an endowment contract which matures by reason of completion of the endowment period may be paid to the insured (1) in equal monthly installments of from thirty-six to two hundred and forty in number, in multiples of twelve; or (2) as a refund life income in monthly installments payable for such periods certain as may be required in order that the sum of the installments certain, including a last installment of such reduced amount as may be necessary, shall equal the cash value of the contract, less any indebtedness, with such payments continuing throughout the lifetime of the insured. However, all settlements under option (2) above shall be calculated on the basis of The Annuity Table for 1949. If the option selected requires payment of monthly installments of less than $10, the amount payable shall be paid in such maximum number of monthly installments as are a multiple of twelve as will provide a monthly installment of not less than $10.

(c)(1) Following the death of the insured and in a case not covered by section 1950 of this title—

(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161, § 752; Pub. L. 91–291, § 12, June 25, 1970, 84 Stat. 332; Pub. L. 97–66, title IV, § 403(b), Oct. 17, 1981, 95 Stat. 1031; Pub. L. 99–576, title VII, § 701(32), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1952 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–183, title I, § 103(b), Dec. 16, 2003, 117 Stat. 2655.)

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–183 added subsec. (c).

1991—Pub. L. 102–83 renumbered section 752 of this title as this section and substituted ''Secretary'' for ''Administrator'' in subsecs. (a) and (b).

1986—Subsec. (a). Pub. L. 99–576 substituted ''the right'' for ''his right'' in two places.

1981—Subsec. (a). Pub. L. 97–66 inserted provision empowering beneficiaries, in the case of insurance maturing after Sept. 30, 1981, and for which the insured has not exercised the right of election of the insured as provided in this subchapter, to elect to receive payment of the insurance in one sum.

1970—Pub. L. 91–291 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 effective Oct. 1, 2004, see section 103(c) of Pub. L. 108–183, set out as a note under section 1917 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective first day of first calendar month which begins more than six calendar months after June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

TRANSITION PROVISION

For transition provision relating to subsec. (c)(1) of this section, see section 103(d) of Pub. L. 108–183, set out as a note under section 1917 of this title.

§ 1953. Assignments

Any person to whom United States Government life insurance shall be payable may assign such person's interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161, § 753; Pub. L. 96–128, title III, § 304, Nov. 28, 1979, 93 Stat. 986; renumbered § 1953, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 3 of the World War Veterans' Act, 1924, referred to in text, is section 3 of act June 7, 1924, ch. 320, 43 Stat. 607, which was classified to section 424 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as section 101 of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 753 of this title as this section.

1979—Pub. L. 96–128 substituted ''such person's'' for ''his''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

§ 1954. Forfeiture

No yearly renewable term insurance or United States Government life insurance shall be payable for death inflicted as a lawful punishment for crime or military offense, except when inflicted by the enemy. In such cases the cash surrender value of United States Government life insurance, if any, on the date of such death shall be paid to the designated beneficiary if living, or if there be no designated beneficiary alive at the death of the insured the said value shall be paid to the estate of the insured.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161, § 754; renumbered § 1954, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 754 of this title as this section.

§ 1955. United States Government Life Insurance Fund

(a) All premiums paid on account of United States Government life insurance shall be deposited and covered into the Treasury to the credit of the United States Government Life Insurance Fund and shall be available for the payment of losses, dividends, refunds, and other benefits provided for under such insurance, including such liabilities as shall have been or shall hereafter be reduced to judgment in a district court of the United States or the United States District Court for the District of Columbia, and for the reimbursement of administrative costs under subsection (c). Payments from this fund shall be made upon and in accordance with awards by the Secretary.

(b) The Secretary is authorized to set aside out of the funds so collected such reserve funds as may be required, under accepted actuarial principles, to meet all liabilities under such insurance; and the Secretary of the Treasury is authorized to invest and reinvest the said United States Government Life Insurance Fund, or any part thereof, in interest-bearing obligations of the United States or bonds of the Federal farm-loan banks and to sell said obligations of the United States or the bonds of the Federal farm-loan banks for the purposes of such Fund.

(c)(1) For each fiscal year for which this subsection is in effect, the Secretary shall, from the United States Government Life Insurance Fund, reimburse the ''General operating expenses'' account of the Department for the amount of administrative costs determined under paragraph (2) for that fiscal year. Such reimbursement shall be made from any surplus earnings for that fiscal year that are available for dividends on such insurance after claims have been paid and actuarially determined reserves have been set aside. However, if the amount of such administrative costs exceeds the amount of such surplus earnings, such reimbursement shall be made only to the extent of such surplus earnings.

(2) The Secretary shall determine the administrative costs to the Department for a fiscal year for which this subsection is in effect which, in the judgment of the Secretary, are properly allocable to the provision of United States Government Life Insurance (and to the provision of any total disability income insurance added to the provision of such insurance).

(3) This subsection shall be in effect only with respect to fiscal year 1996.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1161, § 755; renumbered § 1955 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–99, title II, § 201(b), Jan. 26, 1996, 110 Stat. 36.)

CODIFICATION

Amendment by Pub. L. 104–99 is based on section 107(3) of H.R. 2099, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 7, 1995, which was enacted into law by Pub. L. 104–99.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–99 inserted '', and for the reimbursement of administrative costs under subsection (c)'' after ''District of Columbia''.

Subsec. (c). Pub. L. 104–99 added subsec. (c).

1991—Pub. L. 102–83 renumbered section 755 of this title as this section and substituted ''Secretary'' for ''Administrator'' in subsecs. (a) and (b).

§ 1956. Military and naval insurance appropriation

All sums heretofore or hereafter appropriated for the military and naval insurance appropriation and all premiums collected for yearly renewable term insurance deposited and covered into the Treasury to the credit of this appropriation shall be made available to the Department. All premiums that may hereafter be collected for yearly renewable term insurance shall be deposited and covered into the Treasury for the credit of this appropriation. Such sum is made available for the payment of the liabilities of the United States incurred under contracts of yearly renewable term insurance. Payments from this appropriation shall be made upon and in accordance with the awards by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1162, § 756; renumbered § 1956 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 756 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

§ 1957. Extra hazard costs

(a) The United States shall bear the excess mortality and disability cost resulting from the hazards of war on United States Government life insurance.

(b) Whenever benefits under United States Government life insurance become, or have become, payable because of total permanent disability of the insured or because of the death of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Secretary, the liability shall be borne by the United States. In such cases the Secretary shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum which, together with the reserve of the policy at the time of maturity by total permanent disability or death, will equal the then value of such benefits. When a person receiving total permanent disability benefits under a United States Government life insurance policy recovers from such disability and is then entitled to continue a reduced amount of insurance, the Secretary shall transfer to the military and naval insurance appropriation all of the loss reserve to the credit of such policy claim except a sum sufficient to set up the then required reserve on the reduced amount of the insurance that may be continued, which sum shall be retained in the United States Government Life Insurance Fund for the purpose of such reserve.

(c) Whenever benefits under the total disability provision become, or have become, payable because of total disability of the insured as a result of disease or injury traceable to the extra hazard of the military or naval service, as such hazard may be determined by the Secretary, the liability shall be borne by the United States, and the Secretary shall transfer from the military and naval insurance appropriation to the United States Government Life Insurance Fund from time to time any amounts which become or have become payable to the insured on account of such total disability, and shall transfer from the United States Government Life Insurance Fund to the military and naval insurance appropriation the amount of the reserve held on account of the total disability benefit. When a person receiving such payments on account of total disability recovers from such disability and is then entitled to continued protection under the total disability provision, the Secretary shall transfer to the United States Government Life Insurance Fund a sum sufficient to set up the then required reserve on such total disability benefit.

(d) Any disability for which a waiver was required as a condition to tendering a person a commission under Public Law 816, Seventy-seventh Congress, shall be deemed to be a disability resulting from an injury or disease traceable to the extra hazard of military or naval service for the purpose of applying this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1162, § 757; renumbered § 1957 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Public Law 816, Seventy-seventh Congress, referred to in subsec. (d), is act Dec. 18, 1942, ch. 768, §§ 1, 2, 56 Stat. 1066. Section 1 of that Act enacted section 853c–5 of former Title 34, Navy, and was repealed by act July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505. Section 2 of that Act enacted section 853c–6 of former Title 34, and was omitted from the Code in the general revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 757 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (b) and (c).

§ 1958. Statutory total permanent disability

Without prejudice to any other cause of disability, the permanent loss of the use of both feet, of both hands, or of both eyes, or of one foot and one hand, or of one foot and one eye, or of one hand and one eye, or the loss of hearing of both ears, or the organic loss of speech, shall be deemed total permanent disability for insurance purposes. This section shall be deemed to be in effect on and after April 6, 1917, and shall apply only to automatic insurance, yearly renewable term insurance, and United States Government life insurance issued prior to December 15, 1936.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1163, § 758; renumbered § 1958, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 758 of this title as this section.

§ 1959. Waiver of disability for reinstatement

(a) In the event that all provisions of the rules and regulations other than the requirements as to the physical condition of the applicant have been complied with, an application for reinstatement, in whole or in part, of lapsed United States Government life insurance may be approved if made within two years after the date of lapse and if the applicant's disability is the result of an injury or disease, or of an aggravation thereof, suffered or contracted in the active military or naval service during the period beginning April 6, 1917, and ending July 2, 1921, and the applicant during the applicant's lifetime submits proof satisfactory to the Secretary showing that the applicant is not totally and permanently disabled. As a condition to the acceptance of an application for reinstatement under this section, the applicant shall be required to pay all the back monthly premiums which would have become payable if such insurance had not lapsed, together with interest at the rate of 5 per centum per annum, compounded annually, on each premium from the date said premium is due by the terms of the policy.

(b) Premium liens established under the provisions of section 304 of the World War Veterans' Act, 1924, shall continue to bear interest at the rate of 5 per centum per annum, compounded an-

nually, and will be deducted from any settlement of insurance to which they are attached.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1163, § 759; Pub. L. 99–576, title VII, § 701(33), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1959 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 304 of the World War Veteran's Act, 1924, referred to in subsec. (b), is section 304 of act June 7, 1924, ch. 320, title III, 43 Stat. 625, which enacted section 515 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, § 14(51), Sept. 2, 1958, 72 Stat. 1271.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 759 of this title as this section and substituted ''Secretary'' for ''Administrator'' in subsec. (a).

1986—Subsec. (a). Pub. L. 99–576 substituted ''the applicant's'' for ''his'' and ''the applicant'' for ''he''.

§ 1960. Waiver of premium payments on due date

(a) The Secretary is authorized to provide by regulations for waiving the payment of premiums on United States Government life insurance on the due date thereof and the insurance may be deemed not to lapse in the cases of the following persons: (1) those who are confined in hospital under the Department for a compensable disability during the period while they are so confined; (2) those who are rated as temporarily totally disabled by reason of any injury or disease entitling them to compensation during the period of such total disability and while they are so rated; (3) those who, while mentally incompetent and for whom no legal guardian had been or has been appointed, allowed or may allow their insurance to lapse during the period for which they have been or hereafter may be rated mentally incompetent, or until a guardian has notified the Department of the guardian's qualification, but not later than six months after appointment of a guardian. In mentally incompetent cases the waiver is to be made without application and retroactive when necessary. Relief from payment of premiums on the due date thereof shall be for full calendar months, beginning with the month in which said confinement to hospital, the temporary total disability rating, or the mental incompetency began or begins and ending with that month during the half or major fraction of which such persons are no longer entitled to waiver as provided above.

(b) All premiums the payment of which when due is waived as provided in this section shall bear interest at the rate of 5 percent per annum, compounded annually, from the due date of each premium, and if not paid by the insured shall be deducted from the insurance in any settlement thereunder, or when the same matures either because of permanent total disability or death. In the event any lien or other indebtedness established by this section or prior corresponding provision of law exists against any policy of United States Government life insurance in excess of the then cash surrender value thereof at the time of the termination of such policy of insurance for any reason other than by death or total permanent disability the Secretary is authorized to transfer and pay from the military and naval insurance appropriation to the United States Government Life Insurance Fund a sum equal to the amount such lien or indebtedness exceeds the then cash surrender value.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1163, § 760; Pub. L. 97–295, § 4(28), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, § 701(34), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1960 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 760 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (a). Pub. L. 99–576 substituted ''the guardian's'' for ''his''.

1982—Subsec. (b). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

§ 1961. Authority for higher interest rates for amounts payable to beneficiaries

Notwithstanding section 1944(b) of this title, if the beneficiary of an insurance policy issued under the provisions of this subchapter receives the proceeds of such policy under a settlement option under which such proceeds are paid in equal monthly installments over a limited period of months, the interest that may be added to each such installment may be at a rate that is higher than the interest rate prescribed in such section. The Secretary may from time to time establish a higher interest rate under the preceding sentence only in accordance with a determination that such higher rate is administratively and actuarially sound. Any such higher interest rate shall be paid on the unpaid balance of such monthly installments.

(Added Pub. L. 96–128, title III, § 303(a), Nov. 28, 1979, 93 Stat. 986, § 761; renumbered § 1961 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 761 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1944(b)'' for ''744(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as an Effective Date of 1979 Amendment note under section 1114 of this title.

§ 1962. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Secretary may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Secretary may make such an adjustment only if the Secretary deter-

mines that the adjustment is administratively and actuarially sound. The Secretary may make such an adjustment without regard to the provisions of section 1944 of this title with respect to interest rates and the use of mortality tables.

(b) The Secretary shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in section 1944 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

(Added Pub. L. 100–322, title III, § 331(b)(1), May 20, 1988, 102 Stat. 536, § 762; renumbered § 1962 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 762 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1944'' for ''744''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1944'' for ''744''.

§ 1963. Authority for payment of interest on settlements

(a) Subject to subsection (b) of this section, the Secretary may pay interest on the proceeds of a United States Government Life Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

(b)(1) The Secretary may pay interest under subsection (a) of this section only if the Secretary determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

(2) Interest paid under subsection (a) shall be at the rate that is established by the Secretary for dividends held on credit or deposit in policyholders' accounts.

(Added Pub. L. 100–687, div. B, title XIV, § 1401(a)(2), Nov. 18, 1988, 102 Stat. 4128, § 763; renumbered § 1963 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 763 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective with respect to insurance policies maturing after Nov. 18, 1988, see section 1401(a)(3) of Pub. L. 100–687, set out as a note under section 1928 of this title.

SUBCHAPTER III—SERVICEMEMBERS' GROUP LIFE INSURANCE

AMENDMENTS

1996—Pub. L. 104–275, title IV, § 405(b)(2)(A), Oct. 9, 1996, 110 Stat. 3339, substituted ''SERVICEMEMBERS' GROUP'' for ''SERVICEMEN'S GROUP''.

§ 1965. Definitions

For the purpose of this subchapter—

(1) The term ''active duty'' means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;

(C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration; and

(D) full-time duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy.

(2) The term ''active duty for training'' means—

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service;

(C) full-time duty as a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises; and

(D) in the case of members of the National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(3) The term ''inactive duty training'' means—

(A) duty (other than full-time duty) prescribed or authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) which duty is scheduled in advance by competent authority to begin at a specific time and place; and

(B) in the case of a member of the National Guard or Air National Guard of any State, such term means duty (other than full-time duty) which is scheduled in advance by competent authority to begin at a specific time and place under sections 316, 502, 503, 504, or 505 of title 32, United States Code.

(4) The terms ''active duty for training'' and ''inactive duty training'' do not include duty performed as a temporary member of the Coast Guard Reserve, and the term ''inactive duty training'' does not include (A) work or study performed in connection with correspondence courses, or (B) attendance at an educational institution in an inactive status.

(5) The term ''member'' means—

(A) a person on active duty, active duty for training, or inactive duty training in the uniformed services in a commissioned, warrant, or enlisted rank, or grade, or as a cadet or midshipman of the United States Military Academy, United States Naval Academy, United States Air Force Academy, or the United States Coast Guard Academy;

(B) a person who volunteers for assignment to the Ready Reserve of a uniformed service and is assigned to a unit or position in which such person may be required to perform active duty, or active duty for training, and each year will be scheduled to perform at least twelve periods of inactive duty training that is creditable for retirement purposes under chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act);

(C) a person who volunteers for assignment to a mobilization category in the Individual Ready Reserve, as defined in section 12304(i)(1) of title 10; and

(D) a member, cadet, or midshipman of the Reserve Officers Training Corps while attending field training or practice cruises.

(6) The term ''uniformed services'' means the Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration.

(7) The terms ''widow'' or ''widower'' means a person who is the lawful spouse of the insured member at the time of his death.

(8) The term ''child'' means a legitimate child, a legally adopted child, an illegitimate child as to the mother, or an illegitimate child as to the alleged father, only if (A) he acknowledged the child in writing signed by him; or (B) he has been judicially ordered to contribute to the child's support; or (C) he has been, before his death, judicially decreed to be the father of such child; or (D) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the insured was the informant and was named as father of the child; or (E) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the insured was named as the father of the child.

(9) The term ''parent'' means a father of a legitimate child, mother of a legitimate child, father through adoption, mother through adoption, mother of an illegitimate child, and father of an illegitimate child but only if (A) he acknowledged paternity of the child in writing signed by him before the child's death; or (B) he has been judicially ordered to contribute to the child's support; or (C) he has been judicially decreed to be the father of such child; or (D) proof of paternity is established by a certified copy of the public record of birth or church record of baptism showing that the claimant was the informant and was named as father of the child; or (E) proof of paternity is established from service department or other public records, such as school or welfare agencies, which show that with his knowledge the claimant was named as father of the child. No person who abandoned or willfully failed to support a child during the child's minority, or consented to the child's adoption may be recognized as a parent for the purpose of this subchapter. However, the immediately preceding sentence shall not be applied so as to require duplicate payments in any case in which insurance benefits have been paid prior to receipt in the administrative office established under subsection 1966(b) of this title of sufficient evidence to clearly establish that the person so paid could not qualify as a parent solely by reason of such sentence.

(10) The term ''insurable dependent'', with respect to a member, means the following:

(A) The member's spouse.

(B) The member's child, as defined in the first sentence of section 101(4)(A) of this title.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 880, § 765; amended Pub. L. 91–291, § 1, June 25, 1970, 84 Stat. 326; Pub. L. 92–185, § 1, Dec. 15, 1971, 85 Stat. 642; Pub. L. 92–315, June 20, 1972, 86 Stat. 227; Pub. L. 93–289, §§ 3, 10(1), May 24, 1974, 88 Stat. 165, 172; Pub. L. 99–576, title VII, § 701(35), Oct. 28, 1986, 100 Stat. 3293; Pub. L. 102–54, § 14(b)(16), June 13, 1991, 105 Stat. 284; renumbered § 1965 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–337, div. A, title VI, § 651(a), title XVI, § 1677(d)(1), Oct. 5, 1994, 108 Stat. 2792, 3020; Pub. L. 104–275, title IV, § 402(a), Oct. 9, 1996, 110 Stat. 3337; Pub. L. 106–419, title III, § 313(a), Nov. 1, 2000, 114 Stat. 1854; Pub. L. 107–14, § 4(a)(1), June 5, 2001, 115 Stat. 26.)

REFERENCES IN TEXT

Chapter 67 of title 10 as in effect before the effective date of the Reserve Officer Personnel Management Act, referred to in par. (5)(B), means chapter 67 (§ 1331 et seq.) of Title 10, Armed Forces, prior to its transfer to part II of subtitle E of Title 10, its renumbering as chapter 1223, and its general revision by section 1662(j)(1) of Pub. L. 103–337. A new chapter 67 (§ 1331) of Title 10 was added by section 1662(j)(7) of Pub. L. 103–337. For effective date of the Reserve Officer Personnel Management Act (Pub. L. 103–337, title XVI), see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10.

AMENDMENTS

2001—Par. (10). Pub. L. 107–14 added par. (10).

2000—Par. (5)(C), (D). Pub. L. 106–419 added subpar. (C) and redesignated former subpar. (C) as (D).

1996—Par. (5)(B). Pub. L. 104–275, § 402(a)(1), inserted ''and'' at end.

Par. (5)(C) to (E). Pub. L. 104–275, § 402(a)(2), (3), redesignated subpar. (E) as (C) and struck out former subpars. (C) and (D) which read as follows:

''(C) a person assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who has not received the first increment of retirement pay or has not yet reached sixty-one years of age and has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act);

''(D) a person transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10 who

has not received the first increment of retirement pay or has not reached sixty-one years of age; and''.

1994—Par. (5)(B), (C). Pub. L. 103–337, § 1677(d)(1), substituted ''chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)'' for ''chapter 67 of title 10''.

Par. (5)(D), (E). Pub. L. 103–337, § 651(a), added subpar. (D) and redesignated former subpar. (D) as (E).

1991—Pub. L. 102–83, § 5(a), renumbered section 765 of this title as this section.

Par. (4). Pub. L. 102–54, § 14(b)(16)(A), redesignated cls. (i) and (ii) as (A) and (B), respectively.

Par. (8). Pub. L. 102–54, § 14(b)(16)(B), redesignated cls. (a) to (e) as (A) to (E), respectively.

Par. (9). Pub. L. 102–83, § 5(c)(1), substituted ''1966(b)'' for ''766(b)''.

Pub. L. 102–54, § 14(b)(16)(B), redesignated cls. (a) to (e) as (A) to (E), respectively.

1986—Par. (5)(B). Pub. L. 99–576, § 701(35)(A), substituted ''such person'' for ''he''.

Par. (9). Pub. L. 99–576, § 701(35)(B), substituted ''the child's'' for ''his'' in two places.

1974—Par. (1)(C). Pub. L. 93–289, § 10(1), substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

Par. (5). Pub. L. 93–289, § 3, added cls. (B) and (C), redesignated former cl. (B) as (D), and substituted ''midshipman of'' for ''midshipman at'' in cl. (A).

Par. (6). Pub. L. 93–289, § 10(1), substituted ''National Oceanic and Atmospheric Administration'' for ''Environmental Science Services Administration''.

1972—Par. (1)(D). Pub. L. 92–315, § 1(3), added cl. (D).

Par. (5)(A). Pub. L. 92–315, § 1(4), expanded definition of ''member'' to include persons in active duty as a cadet or midshipman at the United States Military Academy, United States Naval Academy, United States Air Force Academy and the United States Coast Guard Academy.

1971—Pars. (7) to (9). Pub. L. 92–185 added pars. (7) to (9) defining, respectively, ''widow'' or ''widower'', ''child'', and ''parent''.

1970—Pub. L. 91–291 struck out from definition of ''active duty'' a reference to calls or orders to duty which specify a period of 30 days or less, inserted definitions for ''active duty for training'' and ''inactive duty training'', and, in definition of ''uniformed services'', inserted provisions limiting the scope of that term in the case of personnel of the Public Health Service and the Environmental Science Services Administration to the commissioned corps thereof respectively.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–14 effective on the first day of the first month that begins more than 120 days after June 5, 2001, see section 4(g)(1) of Pub. L. 107–14, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1677(d)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(2) of Pub. L. 93–289 provided that: ''The amendments relating to Servicemen's Group Life Insurance coverage on a full-time basis for certain members of the Reserves and National Guard shall become effective upon the date of enactment of this Act [May 24, 1974].''

EFFECTIVE DATE OF 1971 AMENDMENT

Section 2 of Pub. L. 92–185 provided that: ''The provisions of this Act [amending this section] shall apply only to Servicemen's Group Life Insurance in effect on the life of an insured member who dies on or after the date of enactment of this Act [Dec. 15, 1971].''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

Section 14(b) of Pub. L. 91–291 provided that: ''The provisions of section 765(7), (8), and (9) [now 1765(7), (8), and (9)] of title 38, United States Code, as added by the first section of this Act shall apply only to servicemen's group life insurance in effect on the life of an insured member who dies on and after the date of enactment of this Act [June 25, 1970].''

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.

RENAMING OF GROUP LIFE INSURANCE PROGRAM

Section 405(a) of Pub. L. 104–275 provided that: ''The program of insurance operated by the Secretary of Veterans Affairs under subchapter III of chapter 19 of title 38, United States Code, is hereby redesignated as the Servicemembers' Group Life Insurance program.''

REFERENCES TO SERVICEMEN'S GROUP LIFE INSURANCE OR ADVISORY COUNCIL ON SERVICEMEN'S GROUP LIFE INSURANCE

Section 405(d) of Pub. L. 104–275 provided that: ''Any reference to Servicemen's Group Life Insurance or to the Advisory Council on Servicemen's Group Life Insurance in any Federal law, Executive order, regulation, delegation of authority, or other document of the Federal Government shall be deemed to refer to Servicemembers' Group Life Insurance or the Advisory Council on Servicemembers' Group Life Insurance, respectively.''

§ 1966. Eligible insurance companies

(a) The Secretary is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of group life insurance to provide the benefits specified in this subchapter. Each such life insurance company must (1) be licensed to issue life insurance in each of the fifty States of the United States and in the District of Columbia, and (2) as of the most recent December 31 for which information is available to the Secretary, have in effect at least 1 percent of the total amount of group life insurance which all life insurance companies have in effect in the United States.

(b) The life insurance company or companies issuing such policy or policies shall establish an administrative office at a place and under a name designated by the Secretary.

(c) The Secretary shall arrange with the life insurance company or companies issuing any policy or policies under this subchapter to reinsure, under conditions approved by the Secretary, portions of the total amount of insurance under such policy or policies with such other life insurance companies (which meet qualifying criteria set forth by the Secretary) as may elect to participate in such reinsurance.

(d) The Secretary may at any time discontinue any policy or policies which the Sec-

retary has purchased from any insurance company under this subchapter.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 880, § 766; amended Pub. L. 97–295, § 4(29), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, § 701(36), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1966 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 766 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (c). Pub. L. 99–576, § 701(36)(A), substituted ''the Administrator'' for ''him''.

Subsec. (d). Pub. L. 99–576, § 701(36)(B), substituted ''the Administrator'' for ''he''.

1982—Subsec. (a). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

§ 1967. Persons insured; amount

(a)(1) Subject to an election under paragraph (2), any policy of insurance purchased by the Secretary under section 1966 of this title shall automatically insure the following persons against death:

(A) In the case of any member of a uniformed service on active duty (other than active duty for training)—

(i) the member; and

(ii) each insurable dependent of the member.

(B) Any member of a uniformed service on active duty for training or inactive duty training scheduled in advance by competent authority.

(C) In the case of any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in section 1965(5)(B) of this title—

(i) the member; and

(ii) each insurable dependent of the member.

(2)(A) A member may elect in writing not to be insured under this subchapter.

(B) A member may elect in writing not to insure the member's spouse under this subchapter.

(3)(A) Subject to subparagraphs (B) and (C), the amount for which a person is insured under this subchapter is as follows:

(i) In the case of a member, $250,000.

(ii) In the case of a member's spouse, $100,000.

(iii) In the case of a member's child, $10,000.

(B) A member may elect in writing to be insured or to insure the member's spouse in an amount less than the amount provided for under subparagraph (A). The member may not elect to insure the member's child in an amount less than $10,000. The amount of insurance so elected shall, in the case of a member or spouse, be evenly divisible by $10,000.

(C) In no case may the amount of insurance coverage under this subsection of a member's spouse exceed the amount of insurance coverage of the member.

(4)(A) An insurable dependent of a member is not insured under this chapter unless the member is insured under this subchapter.

(B) An insurable dependent who is a child may not be insured at any time by the insurance coverage under this chapter of more than one member. If an insurable dependent who is a child is otherwise eligible to be insured by the coverage of more than one member under this chapter, the child shall be insured by the coverage of the member whose eligibility for insurance under this subchapter occurred first, except that if that member does not have legal custody of the child, the child shall be insured by the coverage of the member who has legal custody of the child.

(5) The insurance shall be effective with respect to a member and the insurable dependents of the member on the latest of the following dates:

(A) The first day of active duty or active duty for training.

(B) The beginning of a period of inactive duty training scheduled in advance by competent authority.

(C) The first day a member of the Ready Reserve meets the qualifications set forth in section 1965(5)(B) of this title.

(D) The date certified by the Secretary to the Secretary concerned as the date Servicemembers' Group Life Insurance under this subchapter for the class or group concerned takes effect.

(E) In the case of an insurable dependent who is a spouse, the date of marriage of the spouse to the member.

(F) In the case of an insurable dependent who is a child, the date of birth of such child or, if the child is not the natural child of the member, the date on which the child acquires status as an insurable dependent of the member.

(b) Any member (other than one who has elected not to be insured under this subchapter for the period or periods of duty involved)—

(1) who, when authorized or required by competent authority, assumes an obligation to perform (for less than thirty-one days) active duty, or active duty for training, or inactive duty training scheduled in advance by competent authority; and

(2) who is rendered uninsurable at standard premium rates according to the good health standards approved by the Secretary, or dies within one hundred and twenty days thereafter, from a disability, or aggravation of a preexisting disability, incurred by such member while proceeding directly to or returning directly from such active duty, active duty for training, or inactive duty training as the case may be;

shall be deemed to have been on active duty, active duty for training, or inactive duty training, as the case may be, and to have been insured under this subchapter at the time such disability was incurred or aggravated, and if death occurs within one hundred and twenty days thereafter as a result of such disability to have been insured at the time of death. In determining whether or not such individual was so authorized or required to perform such duty, and whether or not such member was rendered uninsurable or died within one hundred and twenty days thereafter from a disability so incurred or aggravated, there shall be taken into account

the call or order to duty, the orders and authorizations of competent authority, the hour on which the member began to so proceed or to return, the hour on which such member was scheduled to arrive for, or on which such member ceased to perform such duty; the method of travel employed; such member's itinerary; the manner in which the travel was performed; and the immediate cause of disability or death. Whenever any claim is filed alleging that the claimant is entitled to benefits by reason of this subsection, the burden of proof shall be on the claimant.

(c) If a person eligible for insurance under this subchapter is not so insured, or is insured for less than the maximum amount provided for the person under subparagraph (A) of subsection (a)(3), by reason of an election made by a member under subparagraph (B) of that subsection, the person may thereafter be insured under this subchapter in the maximum amount or any lesser amount elected as provided in such subparagraph (B) upon written application by the member, proof of good health of each person (other than a child) to be so insured, and compliance with such other terms and conditions as may be prescribed by the Secretary. Any former member insured under Veterans' Group Life Insurance who again becomes eligible for Servicemembers' Group Life Insurance and declines such coverage solely for the purpose of maintaining such member's Veterans' Group Life Insurance in effect shall upon termination of coverage under Veterans' Group Life Insurance be automatically insured under Servicemembers' Group Life Insurance, if otherwise eligible therefor.

(d) Whenever a member has the opportunity to make an election under subsection (a) not to be insured under this subchapter, or to be insured under this subchapter in an amount less than the maximum amount of $250,000, and at such other times periodically thereafter as the Secretary concerned considers appropriate, the Secretary concerned shall furnish to the member general information concerning life insurance. Such information shall include—

(1) the purpose and role of life insurance in financial planning;

(2) the difference between term life insurance and whole life insurance;

(3) the availability of commercial life insurance; and

(4) the relationship between Servicemembers' Group Life Insurance and Veterans' Group Life Insurance.

(e) The effective date and time for any change in benefits under the Servicemembers' Group Life Insurance Program shall be based on the date and time according to the time zone immediately west of the International Date Line.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 881, § 767; amended Pub. L. 91–291, § 2, June 25, 1970, 84 Stat. 327; Pub. L. 93–289, § 4, May 24, 1974, 88 Stat. 166; Pub. L. 97–66, title IV, § 401(a), Oct. 17, 1981, 95 Stat. 1030; Pub. L. 99–166, title IV, § 401(a), Dec. 3, 1985, 99 Stat. 956; Pub. L. 99–576, title VII, § 701(37), Oct. 28, 1986, 100 Stat. 3293; Pub. L. 102–25, title III, § 336(a), Apr. 6, 1991, 105 Stat. 89; renumbered § 1967 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–568, title II, § 201, Oct. 29, 1992, 106 Stat. 4324; Pub. L. 103–160, div. A, title XI, § 1175(a), Nov. 30, 1993, 107 Stat. 1768; Pub. L. 103–337, div. A, title VI, § 651(b), Oct. 5, 1994, 108 Stat. 2792; Pub. L. 104–106, div. A, title VI, § 646, Feb. 10, 1996, 110 Stat. 369; Pub. L. 104–275, title IV, §§ 402(b), 404, 405(b)(1)(A), Oct. 9, 1996, 110 Stat. 3337, 3339; Pub. L. 106–419, title III, §§ 312(a), 313(b), Nov. 1, 2000, 114 Stat. 1854, 1855; Pub. L. 107–14, § 4(b), June 5, 2001, 115 Stat. 26.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14, § 4(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any policy of insurance purchased by the Secretary under section 1966 of this title shall automatically insure against death—

''(1) any member of a uniformed service on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority; and

''(2) any member of the Ready Reserve of a uniformed service who meets the qualifications set forth in subparagraph (B) or (C) of section 1965(5) of this title;

in the amount of $250,000, unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in an amount less than $250,000 that is evenly divisible by $10,000. The insurance shall be effective the first day of active duty or active duty for training, or the beginning of a period of inactive duty training scheduled in advance by competent authority, or the first day a member of the Ready Reserve meets the qualifications set forth in subparagraph (B) or (C) of section 1965(5) of this title, or the date certified by the Secretary to the Secretary concerned as the date Servicemembers' Group Life Insurance under this subchapter for the class or group concerned takes effect, whichever is the later date.''

Subsec. (c). Pub. L. 107–14, § 4(b)(2), inserted first sentence and struck out former first sentence which read as follows: ''If any member elects not to be insured under this subchapter or to be insured in any amount less than $250,000, such member may thereafter be insured under this subchapter in the amount of $250,000 or any lesser amount evenly divisible by $10,000 upon written application, proof of good health, and compliance with such other terms and conditions as may be prescribed by the Secretary.''

2000—Subsec. (a). Pub. L. 106–419, § 313(b), substituted ''subparagraph (B) or (C) of section 1965(5) of this title'' for ''section 1965(5)(B) of this title'' in par. (2) and concluding provisions.

Pub. L. 106–419, § 312(a), substituted ''$250,000'' for ''$200,000'' in two places in concluding provisions.

Subsecs. (c), (d). Pub. L. 106–419, § 312(a), substituted ''$250,000'' for ''$200,000'' in two places in subsec. (c) and in introductory provisions of subsec. (d).

1996—Subsec. (a). Pub. L. 104–275, § 405(b)(1)(A), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' in concluding provisions.

Pub. L. 104–275, § 402(b)(1)(C), struck out ''or the first day a member of the Reserves, whether or not assigned to the Retired Reserve of a uniformed service, meets the qualifications of section 1965(5)(C) of this title, or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,'' after ''section 1965(5)(B) of this title,'' in concluding provisions.

Pub. L. 104–106, § 646(1), substituted ''$200,000'' for ''$100,000'' in two places in concluding provisions.

Subsec. (a)(1). Pub. L. 104–275, § 402(b)(1)(A), inserted ''and'' at end.

Subsec. (a)(3), (4). Pub. L. 104–275, § 402(b)(1)(B), struck out pars. (3) and (4) which read as follows:

''(3) any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve of a uniformed service who meets the qualifications set forth in section 1965(5)(C) of this title; and

''(4) any member assigned to the Retired Reserve of a uniform service who meets the qualifications set forth in section 1965(5)(D) of this title;''.

Subsec. (c). Pub. L. 104–275, § 405(b)(1)(A), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' in two places.

Pub. L. 104–106, § 646(1), substituted ''$200,000'' for ''$100,000'' in two places.

Subsec. (d). Pub. L. 104–275, §§ 402(b)(2), 404, added subsec. (d) and struck out former subsec. (d) which read as follows: ''Notwithstanding any other provision of this section, any member who on May 1, 1991 is a member of the Retired Reserve of a uniformed service (or who upon application would be eligible for assignment to the Retired Reserve of a uniformed service) may obtain increased insurance coverage in the amount of $100,000 or any lesser amount evenly divisible by $10,000 if—

''(1) the member—

''(A) is insured under this subchapter on May 1, 1991; or

''(B) within one year after May 1, 1991, reinstates insurance under this subchapter that had lapsed for nonpayment of premiums; and

''(2) the member submits a written application for the increased coverage to the office established pursuant to section 1966(b) of this title within one year after May 1, 1991.''

Subsec. (e). Pub. L. 104–275, § 405(b)(1)(A), substituted ''Servicemembers' Group'' for ''Servicemen's Group''.

Pub. L. 104–106, § 646(2), (3), redesignated subsec. (f) as (e) and struck out former subsec. (e) which read as follows: ''In addition to the amounts of insurance otherwise provided under this section, an eligible member may, upon application, obtain increased coverage beyond that provided under this section in the amount of $100,000, or any lesser amount evenly divisible by $10,000.''

Subsec. (f). Pub. L. 104–106, § 646(3), redesignated subsec. (f) as (e).

1994—Subsec. (a). Pub. L. 103–337, § 651(b)(4), inserted ''or the first day a member of the Reserves meets the qualifications of section 1965(5)(D) of this title,'' after ''section 1965(5)(C) of this title,'' in second sentence.

Subsec. (a)(4). Pub. L. 103–337, § 651(b)(1)–(3), added par. (4).

1993—Subsec. (f). Pub. L. 103–160 added subsec. (f).

1992—Subsec. (e). Pub. L. 102–568 added subsec. (e).

1991—Pub. L. 102–83, § 5(a), renumbered section 767 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1966'' for ''766'', ''1965(5)(B)'' for ''765(5)(B)'' in two places, and ''1965(5)(C)'' for ''765(5)(C)'' in two places.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and in last sentence.

Pub. L. 102–25, § 336(a)(1), substituted ''$100,000'' for ''$50,000'' in two places in concluding provisions.

Subsec. (b)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–25, § 336(a)(1), substituted ''$100,000'' for ''$50,000'' in two places.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1966(b)'' for ''766(b)'' in par. (2).

Pub. L. 102–54, § 336(a)(2), substituted ''May 1, 1991'' for ''January 1, 1986'' wherever appearing and ''$100,000'' for ''$50,000'' in introductory provisions.

1986—Subsec. (b). Pub. L. 99–576, § 701(37)(A), substituted ''such member'' for ''him'', ''such member'' for ''he'' in three places, and ''such member's'' for ''his''.

Subsec. (c). Pub. L. 99–576, § 701(37)(B)(i), substituted ''such member's'' for ''his''.

Pub. L. 99–576, § 701(37)(B)(ii), which directed that subsec. (c) be amended by substituting ''such member'' for ''he'', could not be executed, because ''he'' does not appear in text. See 1985 Amendment note below.

1985—Subsec. (a). Pub. L. 99–166, § 401(a)(1), increased the amount of insurance to $50,000 from $35,000 and substituted ''an amount less than $50,000 that is evenly divisible by $10,000'' for ''the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000''.

Subsec. (c). Pub. L. 99–166, § 401(a)(2), substituted ''any amount less than $50,000, such member may thereafter be insured under this subchapter in the amount of $50,000 or any lesser amount evenly divisible by $10,000'' for ''the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000, he may thereafter be insured under this subchapter or insured in the amount of $35,000, $30,000, $25,000, $20,000, $15,000, or $10,000 under this subchapter, as the case may be,''.

Subsec. (d). Pub. L. 99–166, § 401(a)(3), substituted ''January 1, 1986'' for ''the effective date of this subsection'' wherever appearing, and substituted ''in the amount of $50,000 or any lesser amount evenly divisible by $10,000'' for ''up to a maximum of $35,000 (in any amount divisible by $5,000)''.

1981—Subsec. (a). Pub. L. 97–66, § 401(a)(1), substituted ''in the amount of $35,000 unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000'' for ''in the amount of $20,000 unless such member elects in writing (A) not to be insured under this subchapter, or (B) to be insured in the amount of $15,000, $10,000, or $5,000''.

Subsec. (c). Pub. L. 97–66, § 401(a)(2), substituted ''insured in the amount of $30,000, $25,000, $20,000, $15,000, $10,000, or $5,000, he may thereafter be insured under this subchapter or insured in the amount of $35,000, $30,000, $25,000, $20,000, $15,000, or $10,000 under this subchapter'' for ''insured in the amount of $15,000, $10,000, or $5,000, he may thereafter be insured under this subchapter or insured in the amount of $20,000, $15,000, or $10,000 under this subchapter''.

Subsec. (d). Pub. L. 97–66, § 401(a)(3), added subsec. (d).

1974—Subsec. (a). Pub. L. 93–289, § 4(1), authorized insurance for any member of Ready Reserve who meets qualifications set forth in section 765(5)(B) of this title, and any member assigned to, or who upon application would be eligible for assignment to, the Retired Reserve who meets the qualifications set forth in section 765(5)(C) of this title, increased the amount of insurance from $15,000 to $20,000, permitted a member to elect to be insured for $15,000, and prescribed the effective dates of insurance for members of the Ready Reserve and members of the Reserves, whether or not assigned to the Retired Reserves.

Subsec. (b). Pub. L. 93–289, § 4(2), substituted ''one hundred and twenty days'' for ''ninety days'' in three places.

Subsec. (c). Pub. L. 93–289, § 4(3), inserted provisions authorizing members who elected to be insured in amounts of $15,000, $10,000, or $5,000 to increase the amount of insurance to $20,000, and inserted sentence providing for automatic insurance for former members insured under Veterans' Group Life Insurance who decline coverage under Servicemen's Group Life Insurance.

1970—Subsec. (a). Pub. L. 91–291 increased from $10,000 to $15,000 maximum amount of insurance authorized for members of uniformed services and inserted references to active duty for training and inactive duty training scheduled in advance by competent authority.

Subsec. (b). Pub. L. 91–291 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 91–291 redesignated former subsec. (b) as subsec. (c) and inserted provisions reflecting the increase from $10,000 to $15,000 in maximum available insurance for members of uniformed services.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–14 effective on the first day of the first month that begins more than 120 days after June 5, 2001, see section 4(g)(1) of Pub. L. 107–14, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 107–14, § 5, June 5, 2001, 115 Stat. 30, provided that:

''(a) APPLICABILITY OF INCREASE IN BENEFIT.—Notwithstanding subsection (c) of section 312 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419; 114 Stat. 1854) [set out as a note below], the amendments made by subsection (a) of that section [amending this section] shall take effect on October 1, 2000, with respect to any member of the uniformed services who died in the performance of duty (as determined by the Secretary concerned) during the period beginning on October 1, 2000, and ending at the close of March 31, 2001, and who on the date of death was insured under the Servicemembers' Group Life Insurance program under subchapter III of chapter 19 of title 38, United States Code, for the maximum coverage available under that program.

''(b) DEFINITIONS.—In this section:

''(1) The term 'Secretary concerned' has the meaning given that term in section 101(25) of title 38, United States Code.

''(2) The term 'uniformed services' has the meaning given that term in section 1965(6) of title 38, United States Code.''

Pub. L. 106–419, title III, § 312(c), Nov. 1, 2000, 114 Stat. 1854, provided that: ''The amendments made by this section [amending this section and section 1977 of this title] shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act [Nov. 1, 2000].''

EFFECTIVE DATE OF 1996 AMENDMENT

Section 646 of Pub. L. 104–106 provided that the amendments made by that section are effective Apr. 1, 1996.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1175(b) of Pub. L. 103–160 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to amendments to chapter 19 of title 38, United States Code, that take effect after November 29, 1992.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–568 effective Dec. 1, 1992, see section 205 of Pub. L. 102–568, set out as an Effective Date note under section 1922A of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 336(c)(1) of Pub. L. 102–25 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to deaths on or after the date of the enactment of this Act [Apr. 6, 1991].''

EFFECTIVE DATE OF 1985 AMENDMENT

Section 401(c) of Pub. L. 99–166, as amended by Pub. L. 99–227, § 3, Dec. 28, 1985, 99 Stat. 1745, provided that:

''(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) [amending this section and section 777 [now 1977] of this title] shall take effect on January 1, 1986.

''(2) The amendment made by subsection (a)(1)(A) [amending this section] shall be deemed to have taken effect on December 12, 1985, with respect to members who—

''(A) died after December 11, 1985, and before January 1, 1986; and

''(B) were, on the date of death, insured in the amount of $35,000 under subchapter III of chapter 19 of title 38, United States Code.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Dec. 1, 1981, see section 701(b)(2) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(3) of Pub. L. 93–289 provided that: ''The amendments increasing the maximum amount of Servicemen's Group Life Insurance shall become effective upon the date of enactment of this Act [May 24, 1974].''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

PAYMENT OF DEATH GRATUITY TO SGLI BENEFICIARIES

Pub. L. 103–139, title VIII, § 8134, Nov. 11, 1993, 107 Stat. 1471, required Secretary of Defense to pay death gratuity to each beneficiary under Servicemen's Group Life Insurance policy in case of each deceased member of uniformed services who died on or after Oct. 29, 1992, and before Dec. 1, 1992, and whose death was in performance of duty.

§ 1968. Duration and termination of coverage; conversion

(a) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Secretary, to the effect that any insurance thereunder on any member of the uniformed services, and any insurance thereunder on any insurable dependent of such a member, unless discontinued or reduced upon the written request of the insured (or discontinued pursuant to section 1969(a)(2)(B) of this title), shall continue in effect while the member is on active duty, active duty for training, or inactive duty training scheduled in advance by competent authority during the period thereof, or while the member meets the qualifications set forth in subparagraph (B) or (C) of section 1965(5) of this title and such insurance shall cease as follows:

(1) With respect to a member on active duty or active duty for training under a call or order to duty that does not specify a period of less than 31 days, insurance under this subchapter shall cease—

(A) 120 days after the separation or release from active duty or active duty for training, unless on the date of such separation or release the member is totally disabled, under criteria established by the Secretary, in which event the insurance shall cease one year after the date of separation or release from such active duty or active duty for training, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event before the end of 120 days after such separation or release; or

(B) at the end of the thirty-first day of a continuous period of (i) absence without leave, (ii) confinement by civil authorities under a sentence adjudged by a civilian court, or (iii) confinement by military authorities under a courtmartial sentence involving total forfeiture of pay and allowances. Any insurance so terminated as the result of such an absence or confinement, together with any beneficiary designation in effect for such insurance at such termination thereof, shall be automatically revived as of the date the member is restored to active duty with pay or to active duty for training with pay.

(2) With respect to a member on active duty or active duty for training under a call or order to duty that specifies a period of less than 31 days, insurance under this subchapter shall cease at midnight, local time, on the last day of such duty, unless on such date the insured is suffering from a disability incurred or

aggravated during such period which, within 120 days after such date, (i) results in death, or (ii) renders the member uninsurable at standard premium rates according to the good health standards approved by the Secretary, in which event the insurance shall continue in force to death, or for 120 days after such date, whichever is the earlier date.

(3) With respect to a member on inactive duty training scheduled in advance by competent authority, insurance under this subchapter shall cease at the end of such scheduled training period, unless at such time the insured is suffering from a disability incurred, or aggravated during such period which, within 120 days after the date of such training, (i) results in death, or (ii) renders the member uninsurable at standard premium rates according to the good health standards approved by the Secretary in which event the insurance shall continue in force to death, or for 120 days after the date such training terminated, whichever is the earlier date.

(4) With respect to a member of the Ready Reserve of a uniformed service who meets the qualifications set forth in subparagraph (B) or (C) of section 1965(5) of this title, insurance under this subchapter shall cease 120 days after separation or release from such assignment, unless on the date of such separation or release the member is totally disabled, under criteria established by the Secretary, in which event the insurance shall cease one year after the date of separation or release from such assignment, or on the date the insured ceases to be totally disabled, whichever is the earlier date, but in no event before the end of 120 days after separation or release from such assignment.

(5) With respect to an insurable dependent of the member, insurance under this subchapter shall cease—

(A) 120 days after the date of an election made in writing by the member to terminate the coverage; or

(B) on the earliest of—

(i) 120 days after the date of the member's death;

(ii) 120 days after the date of termination of the insurance on the member's life under this subchapter; or

(iii) 120 days after the termination of the dependent's status as an insurable dependent of the member.

(b)(1) Each policy purchased under this subchapter shall contain a provision, in terms approved by the Secretary, that, except as hereinafter provided, Servicemembers' Group Life Insurance which is continued in force after expiration of the period of duty or travel under section 1967(b) or 1968(a) of this title, effective the day after the date such insurance would cease—

(A) shall be automatically converted to Veterans' Group Life Insurance (to insure against death of the member only), subject to (i) the timely payment of the initial premium under terms prescribed by the Secretary, and (ii) the terms and conditions set forth in section 1977 of this title; or

(B) at the election of the member, shall be converted to an individual policy of insurance as described in section 1977(e) of this title upon written application for conversion made to the participating company selected by the member and payment of the required premiums.

(2) Automatic conversion to Veterans' Group Life Insurance under paragraph (1) shall be effective only in the case of an otherwise eligible member or former member who is separated or released from a period of active duty or active duty for training or inactive duty training on or after the date on which the Veterans' Group Life Insurance program (provided for under section 1977 of this title) becomes effective.

(3)(A) In the case of a policy purchased under this subchapter for an insurable dependent who is a spouse, upon election of the spouse, the policy may be converted to an individual policy of insurance under the same conditions as described in section 1977(e) of this title (with respect to conversion of a Veterans' Group Life Insurance policy to such an individual policy) upon written application for conversion made to the participating company selected by the spouse and payment of the required premiums. Conversion of such policy to Veterans' Group Life Insurance is prohibited.

(B) In the case of a policy purchased under this subchapter for an insurable dependent who is a child, such policy may not be converted under this subsection.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 881, § 768; amended Pub. L. 91–291, § 3, June 25, 1970, 84 Stat. 328; Pub. L. 93–289, § 5(a), May 24, 1974, 88 Stat. 166; Pub. L. 97–295, § 4(30), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, § 701(38), Oct. 28, 1986, 100 Stat. 3293; renumbered § 1968 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–337, div. A, title VI, § 651(c), title XVI, § 1677(d)(1), Oct. 5, 1994, 108 Stat. 2792, 3020; Pub. L. 104–106, div. A, title VI, § 647(b), Feb. 10, 1996, 110 Stat. 370; Pub. L. 104–275, title IV, §§ 402(c), 403(a), 405(b)(1)(B), Oct. 9, 1996, 110 Stat. 3337–3339; Pub. L. 106–65, div. A, title X, § 1066(d)(1), Oct. 5, 1999, 113 Stat. 773; Pub. L. 106–419, title III, § 313(b), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107–14, § 4(c), (f), June 5, 2001, 115 Stat. 28, 29.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14, § 4(c)(1)(A), (2)(A), in introductory provisions, inserted "and any insurance thereunder on any insurable dependent of such a member," after "any insurance thereunder on any member of the uniformed services," and substituted "and such insurance shall cease as follows:" for ", and such insurance shall cease—".

Subsec. (a)(1). Pub. L. 107–14, § 4(c)(2)(B), (C)(i), in introductory provisions, substituted "With respect" for "with respect" and "31 days, insurance under this subchapter shall cease—" for "thirty-one days—".

Subsec. (a)(1)(A). Pub. L. 107–14, § 4(c)(2)(C)(ii), substituted "120 days" for "one hundred and twenty days" and "before the end of 120 days" for "prior to the expiration of one hundred and twenty days".

Subsec. (a)(1)(B). Pub. L. 107–14, § 4(c)(2)(C)(iii), substituted a period for semicolon at end.

Subsec. (a)(2). Pub. L. 107–14, § 4(c)(2)(B), (D), substituted "With respect" for "with respect", "31 days," for "thirty-one days", and a period for semicolon at end and substituted "120 days" for "one hundred and twenty days" in two places.

Subsec. (a)(3). Pub. L. 107–14, § 4(c)(2)(B), (E), substituted ''With respect'' for ''with respect'' and a period for ''; and'' at end, inserted a comma after ''competent authority'', and substituted ''120 days'' for ''one hundred and twenty days'' in two places.

Subsec. (a)(4). Pub. L. 107–14, § 4(c)(2)(B), (F) substituted ''With respect'' for ''with respect'' and inserted ''insurance under this subchapter shall cease'' after ''section 1965(5) of this title,''.

Subsec. (a)(5). Pub. L. 107–14, § 4(c)(1)(B), added par. (5).

Subsec. (b)(1)(A). Pub. L. 107–14, § 4(c)(3), inserted ''(to insure against death of the member only)'' after ''converted to Veterans' Group Life Insurance''.

Subsec. (b)(3). Pub. L. 107–14, § 4(f), added par. (3).

2000—Subsec. (a). Pub. L. 106–419 substituted ''subparagraph (B) or (C) of section 1965(5) of this title'' for ''section 1965(5)(B) of this title'' in introductory provisions and par. (4).

1999—Subsec. (a). Pub. L. 106–65 made technical amendment to directory language of Pub. L. 104–106, § 647(b). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–275, § 402(c)(1)(A), substituted ''section 1965(5)(B)'' for ''subparagraph (B), (C), or (D) of section 1965(5)'' in introductory provisions.

Pub. L. 104–106, § 647(b), as amended by Pub. L. 106–65, inserted ''(or discontinued pursuant to section 1969(a)(2)(B) of this title)'' after ''upon the written request of the insured'' in introductory provisions.

Subsec. (a)(1) to (3). Pub. L. 104–275, § 402(c)(1)(B), (C), substituted a semicolon for the period at end of pars. (1) and (2) and ''; and'' for the period at end of par. (3).

Subsec. (a)(4). Pub. L. 104–275, § 402(c)(1)(D)(iv), struck out subpars. (B) and (C) which read as follows:

''(B) unless on the date of such separation or release the member has completed at least twenty years of satisfactory service creditable for retirement purposes under chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act) and would upon application be eligible for assignment to or is assigned to the Retired Reserve, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier; or

''(C) unless on the date of such separation or release the member is transferred to the Retired Reserve of a uniformed service under the temporary special retirement authority provided in section 1331a of title 10, in which event the insurance, unless converted to an individual policy under terms and conditions set forth in section 1977(e) of this title, shall, upon timely payment of premiums under terms prescribed by the Secretary directly to the administrative office established under section 1966(b) of this title, continue in force until receipt of the first increment of retirement pay by the member or the member's sixty-first birthday, whichever occurs earlier.''

Pub. L. 104–275, § 402(c)(1)(D)(i)–(iii), substituted ''120 days after separation or release from such assignment, unless on'' for ''one hundred and twenty days after separation or release from such assignment—

''(A) unless on'',

substituted ''before the end of 120 days'' for ''prior to the expiration of one hundred and twenty days'', and substituted ''such assignment.'' for ''such assignment;''.

Subsec. (a)(5), (6). Pub. L. 104–275, § 402(c)(1)(E), struck out pars. (5) and (6) which read as follows:

''(5) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(C) of this title, and who was assigned to the Retired Reserve prior to the date insurance under the amendment made by section 5(a) of the Veterans' Insurance Act of 1974 (Public Law 93–289, 88 Stat. 166) is placed in effect for members of the Retired Reserve, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.

''(6) with respect to a member of the Retired Reserve who meets the qualifications of section 1965(5)(D) of this title, at such time as the member receives the first increment of retirement pay, or the member's sixty-first birthday, whichever occurs earlier, subject to the timely payment of the initial and subsequent premiums, under terms prescribed by the Secretary, directly to the administrative office established under section 1966(b) of this title.''

Subsec. (b). Pub. L. 104–275, § 403(a)(3), substituted ''(2) Automatic conversion to Veterans' Group Life Insurance under paragraph (1)'' for ''Such automatic conversion''.

Pub. L. 104–275, § 403(a)(2), substituted ''would cease—'' and subpars. (A) and (B) for ''would cease, shall be automatically converted to Veterans' Group Life Insurance subject to (1) the timely payment of the initial premium under terms prescribed by the Secretary, and (2) the terms and conditions set forth in section 1977 of this title.''

Pub. L. 104–275, § 403(a)(1), inserted ''(1)'' after ''(b)'' at beginning of subsec.

Pub. L. 104–275, § 402(c)(2), struck out at end ''Servicemen's Group Life Insurance continued in force under section 1968(a)(4)(B) or (5) of this title shall not be converted to Veterans' Group Life Insurance. However, a member whose insurance could be continued in force under section 1968(a)(4)(B) of this title, but is not so continued, may, effective the day after the insurance otherwise would cease, convert such insurance to an individual policy under the terms and conditions set forth in section 1977(e) of this title.''

Subsec. (b)(1). Pub. L. 104–275, § 405(b)(1)(B), substituted ''Servicemembers' Group'' for ''Servicemen's Group''.

1994—Subsec. (a). Pub. L. 103–337, § 651(c)(1), substituted ''subparagraph (B), (C), or (D) of section 1965(5)'' for ''section 1965(5)(B) or (C)'' in introductory provisions.

Subsec. (a)(4)(B). Pub. L. 103–337, § 1677(d)(1), substituted ''chapter 1223 of title 10 (or under chapter 67 of that title as in effect before the effective date of the Reserve Officer Personnel Management Act)'' for ''chapter 67 of title 10''.

Subsec. (a)(4)(C). Pub. L. 103–337, § 651(c)(2), added subpar. (C).

Subsec. (a)(6). Pub. L. 103–337, § 651(c)(3), added par. (6).

1991—Pub. L. 102–83, § 5(a), renumbered section 768 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1965(5)(B)'' for ''765(5)(B)'' in two places, ''1977(e)'' for ''777(e)'', ''1966(b)'' for ''766(b)'' in two places, and ''1965(5)(C)'' for ''765(5)(C)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1967(b) or 1968(a)'' for ''767(b) or 768(a)'', ''1977'' for ''777'' in two places, ''1968(a)(4)(B)'' for ''768(a)(4)(B)'' in two places, and ''1977(e)'' for ''777(e)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1986—Subsec. (a)(2), (3). Pub. L. 99–576, § 701(38)(A), (B), struck out ''his'' before ''death'', and substituted ''the member'' for ''his''.

Subsec. (b). Pub. L. 99–576, § 701(38)(C), substituted ''the'' for ''he'' before ''insurance otherwise''.

1982—Subsec. (a)(5). Pub. L. 97–295 substituted ''the amendment made by section 5(a) of the Veterans' Insurance Act of 1974 (Public Law 93–289, 88 Stat. 166)'' for ''this amendment''.

1974—Subsec. (a). Pub. L. 93–289, § 5(a)(1)–(3), inserted in opening provisions ''or while the member meets the

qualifications set forth in section 765(5)(B) or (C) of this title,'', substituted ''one hundred and twenty days'' for ''ninety days'' wherever appearing in pars. (2) and (3), and added pars. (4) and (5).

Subsec. (b). Pub. L. 93–289, § 5(a)(4), substituted provisions requiring policies of Servicemen's Group Life Insurance to contain a provision automatically converting such policy to Veterans' Group Life Insurance, for provisions which required such policies to contain a provision for conversion to an individual policy of insurance, and inserted sentences providing for the effective date of automatic conversion, prohibiting conversion of Servicemen's Group Life Insurance continued in force under section 768(a)(4)(B) or (5) of this title, and authorizing conversion by a member whose insurance could be continued in force under section 768(a)(4)(B) of this title, but is not so continued.

Subsec. (c). Pub. L. 93–289, § 5(a)(5), repealed subsec. (c) which related to conversion by eligible insured persons to policies written by companies participating in the program established by this subchapter.

1970—Subsec. (a). Pub. L. 91–291 designated existing provisions as subsec. (a) and substituted provisions covering the duration of coverage for provisions covering termination of coverage. For termination and conversion of insurance see subsecs. (b) and (c) of this section.

Subsecs. (b), (c). Pub. L. 91–291 added subsecs. (b) and (c).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–14 effective on the first day of the first month that begins more than 120 days after June 5, 2001, see section 4(g)(1) of Pub. L. 107–14, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–65, div. A, title X, § 1066(d)(1), Oct. 5, 1999, 113 Stat. 773, provided that the amendment made by section 1066(d)(1) is effective Apr. 1, 1996.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 647(c) of Pub. L. 104–106 provided that: ''The amendments made by this section [amending this section and section 1969 of this title] shall take effect on April 1, 1996.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1677(d)(1) of Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 12(4) of Pub. L. 93–289 provided that: ''The amendments made by sections 5(a)(4) and (5) of this Act [amending this section], and those enacting a Veterans' Group Life Insurance program [sections 777, 778, and 779 [now 1977, 1978, and 1979] of this title] shall become effective on the first day of the third calendar month following the month in which this Act is enacted [May 1974].''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

CONVERSION OF SGLI TO VGLI

Section 402(e) of Pub. L. 104–275 provided that: ''The Servicemembers' Group Life Insurance of any member of the Retired Reserve of a uniformed service shall be converted to Veterans' Group Life Insurance effective 90 days after the date of the enactment of this Act [Oct. 9, 1996].''

RIGHT OF PERSONS DISCHARGED OR RELEASED FROM UNIFORMED SERVICES TO CONVERT SERVICEMEN'S GROUP LIFE INSURANCE TO INDIVIDUAL POLICIES

Section 5(b) of Pub. L. 93–289 provided that the amendments made by Pub. L. 93–289, enacting sections 777, 778, and 779 [now 1977, 1978, and 1979] of this title and section 707 of Title 37, Pay and Allowances of the Uniformed Services, and amending sections 723, 765, 767, 768, 769, 770, 771, and 774 [now 1923, 1965, 1967, 1968, 1969, 1970, 1971, and 1974] of this title, not be construed to deprive any person discharged or released from the uniformed services of the United States prior to the date on which the Veterans' Group Life Insurance program (provided for under section 777 [now 1977] of this title) became effective of the right to convert Servicemen's Group Life Insurance to an individual policy under the provisions of law in effect prior to such effective date.

§ 1969. Deductions; payment; investment; expenses

(a)(1) During any period in which a member, on active duty or active duty for training under a call or order to such duty that does not specify a period of less than thirty-one days, is insured under Servicemembers' Group Life Insurance, there shall be deducted each month from the member's basic or other pay until separation or release from such duty an amount determined by the Secretary (which shall be the same for all such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(2)(A) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications of (subparagraph (B) or (C) of section 1965(5) of this title, and is insured under a policy of insurance purchased by the Secretary, under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary (which shall be the same for all such members) as the share of the cost attributable to insuring such member under this policy, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made.

(B) If an individual who is required pursuant to subparagraph (A) to make a direct remittance of costs to the Secretary concerned fails to make the required remittance within 60 days of the date on which such remittance is due, such individual's insurance with respect to which such remittance is required shall be terminated by the Secretary concerned. Such termination shall be made by written notice to the individual's official address and shall be effective 60 days after the date of such notice. Such termination of insurance may be vacated if, before the effective date of termination, the individual remits all amounts past due for such insurance and demonstrates to the satisfaction of the Secretary concerned that the failure to make timely remittances was justifiable.

(3) During any fiscal year, or portion thereof, that a member is on active duty or active duty for training under a call or order to such duty that specifies a period of less than thirty-one days, or is authorized or required to perform inactive duty training scheduled in advance by competent authority, and is insured under

Servicemembers' Group Life Insurance, the Secretary concerned shall collect from the member (by deduction from pay or otherwise) an amount determined by the Secretary (which shall be the same for all such members) as the share of the cost attributable to insuring such member under such policy, less any costs traceable to the extra hazard of such duty in the uniformed service.

(4) Any amount not deducted from the basic or other pay of a member insured under Servicemembers' Group Life Insurance, or collected from the member by the Secretary concerned, if not otherwise paid, shall be deducted from the proceeds of any insurance thereafter payable. The initial monthly amount under paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof, determined by the Secretary to be charged under this section for Servicemembers' Group Life Insurance may be continued from year to year, except that the Secretary may redetermine such monthly or fiscal year amounts from time to time in accordance with experience. No refunds will be made to any member of any amount properly deducted from the member's basic or other pay, or collected from the member by the Secretary concerned, to cover the insurance granted under Servicemembers' Group Life Insurance.

(b) For each month for which any member is so insured, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary and certified to the Secretary concerned to be the cost of Servicemembers' Group Life Insurance which is traceable to the extra hazard of duty in the uniformed services. Effective January 1, 1970, such cost shall be determined by the Secretary on the basis of the excess mortality incurred by members and former members of the uniformed services insured under Servicemembers' Group Life Insurance above what their mortality would have been under peacetime conditions as such mortality is determined by the Secretary using such methods and data as the Secretary shall determine to be reasonable and practicable. The Secretary is authorized to make such adjustments regarding contributions from pay appropriations as may be indicated from actual experience.

(c) An amount equal to the first amount due on Servicemembers' Group Life Insurance may be advanced from current appropriations for active-service pay to any such member, which amount shall constitute a lien upon any service or other pay accruing to the person from whom such advance was made and shall be collected therefrom if not otherwise paid. No disbursing or certifying officer shall be responsible for any loss incurred by reason of such advance.

(d)(1) The sums withheld from the basic or other pay of members, or collected from them by the Secretary concerned, under subsection (a) of this section, and the sums contributed from appropriations under subsection (b) of this section, together with the income derived from any dividends or premium rate adjustments received from insurers shall be deposited to the credit of a revolving fund established in the Treasury of the United States. All premium payments and extra hazard costs on Servicemembers' Group Life Insurance and the administrative cost to the Department of insurance issued under this subchapter shall be paid from the revolving fund.

(2) The Secretary is authorized to set aside out of the revolving fund such amounts as may be required to meet the administrative costs to the Department of insurance issued under this subchapter and all current premium payments and extra hazard costs on any insurance policy or policies purchased under section 1966 of this title. The Secretary of the Treasury is authorized to invest in and to sell and retire special interest-bearing obligations of the United States for the account of the revolving fund. Such obligations issued for this purpose shall have maturities fixed with due regard for the needs of the fund and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of four years from the end of such calendar month; except that where such average market yield is not a multiple of one-eighth of 1 per centum, the rate of interest of such obligation shall be the multiple of one-eighth of 1 per centum nearest such market yield.

(3) Notwithstanding the provisions of section 1982 of this title, the Secretary shall, from time to time, determine the administrative costs to the Department which in the Secretary's judgment are properly allocable to insurance issued under this subchapter and shall transfer such cost from the revolving fund to the appropriation ''General Operating Expenses, Department of Veterans Affairs''.

(e) The Secretary of Defense shall prescribe regulations for the administration of the functions of the Secretaries of the military departments under this section. Such regulations shall prescribe such procedures as the Secretary of Defense, after consultation with the Secretary, may consider necessary to ensure that such functions are carried out in a timely and complete manner and in accordance with the provisions of this section, including specifically the provisions of subsection (a)(2) of this section relating to contributions from appropriations made for active duty pay.

(f)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.

(g)(1)(A) During any period in which a spouse of a member is insured under this subchapter and the member is on active duty, there shall be

deducted each month from the member's basic or other pay until separation or release from active duty an amount determined by the Secretary as the premium allocable to the pay period for providing that insurance coverage. No premium may be charged for providing insurance coverage for a child.

(B) During any month in which a member is assigned to the Ready Reserve of a uniformed service under conditions which meet the qualifications set forth in section 1965(5)(B) of this title and the spouse of the member is insured under a policy of insurance purchased by the Secretary under section 1966 of this title, there shall be contributed from the appropriation made for active duty pay of the uniformed service concerned an amount determined by the Secretary (which shall be the same for all such members) as the share of the cost attributable to insuring the spouse of such member under this policy, less any costs traceable to the extra hazards of such duty in the uniformed services. Any amounts so contributed on behalf of any individual shall be collected by the Secretary concerned from such individual (by deduction from pay or otherwise) and shall be credited to the appropriation from which such contribution was made.

(2)(A) The Secretary shall determine the premium amounts to be charged for life insurance coverage for spouses of members under this subchapter.

(B) The premium amounts shall be determined on the basis of sound actuarial principles and shall include an amount necessary to cover the administrative costs to the insurer or insurers providing such insurance.

(C) Each premium rate for the first policy year shall be continued for subsequent policy years, except that the rate may be adjusted for any such subsequent policy year on the basis of the experience under the policy, as determined by the Secretary in advance of that policy year.

(h) Any overpayment of a premium for insurance coverage for an insurable dependent of a member that is terminated under section 1968(a)(5) of this title shall be refunded to the member.

(Added Pub. L. 89–214, §1(a), Sept. 29, 1965, 79 Stat. 881, §769; amended Pub. L. 91–291, §4, June 25, 1970, 84 Stat. 329; Pub. L. 93–289, §§6, 10(2), May 24, 1974, 88 Stat. 168, 172; Pub. L. 97–66, title IV, §402, Oct. 17, 1981, 95 Stat. 1031; Pub. L. 99–576, title VII, §701(39), Oct. 28, 1986, 100 Stat. 3293; Pub. L. 100–322, title III, §332(a), May 20, 1988, 102 Stat. 537; renumbered §1969 and amended Pub. L. 102–83, §§4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–337, div. A, title VI, §651(d), Oct. 5, 1994, 108 Stat. 2793; Pub. L. 103–446, title XII, §1201(e)(8), (i)(3), Nov. 2, 1994, 108 Stat. 4685, 4688; Pub. L. 104–106, div. A, title VI, §647(a), Feb. 10, 1996, 110 Stat. 370; Pub. L. 104–275, title IV, §§402(d), 405(b)(1)(C), Oct. 9, 1996, 110 Stat. 3337, 3339; Pub. L. 106–419, title III, §313(b), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107–14, §4(d), June 5, 2001, 115 Stat. 29.)

AMENDMENTS

2001—Subsecs. (g), (h). Pub. L. 107–14 added subsecs. (g) and (h).

2000—Subsec. (a)(2)(A). Pub. L. 106–419 substituted ''subparagraph (B) or (C) of section 1965(5) of this title'' for ''section 1965(5)(B) of this title''.

1996—Subsec. (a)(1). Pub. L. 104–275, §405(b)(1)(C), substituted ''Servicemembers' Group'' for ''Servicemen's Group''.

Subsec. (a)(2). Pub. L. 104–106 designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(2)(A). Pub. L. 104–275, §402(d)(1), struck out ''is assigned to the Reserve (other than the Retired Reserve) and meets the qualifications of section 1965(5)(C) of this title, or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,'' after ''qualifications of section 1965(5)(B) of this title,''.

Subsec. (a)(3), (4). Pub. L. 104–275, §405(b)(1)(C), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' wherever appearing.

Subsecs. (b) to (d)(1). Pub. L. 104–275, §405(b)(1)(C), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' wherever appearing.

Subsecs. (e) to (g). Pub. L. 104–275, §402(d)(2), (3), redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which related to premiums for Servicemen's Group Life Insurance for members assigned to the Retired Reserve of a uniformed service.

1994—Subsec. (a)(2). Pub. L. 103–337, §651(d)(1), substituted ''is assigned to the Reserve'' for ''or is assigned to the Reserve'' and inserted ''or is assigned to the Retired Reserve and meets the qualifications of section 1965(5)(D) of this title,'' after ''section 1965(5)(C) of this title,''.

Subsec. (d)(3). Pub. L. 103–446, §1201(i)(3), substituted ''Department of Veterans Affairs'' for ''Department''.

Subsec. (e). Pub. L. 103–446, §1201(e)(8), substituted ''subsections (a) and (c) of section 1971'' for ''sections 1971(a) and (c)'' and ''subsections (d) and (e) of section 1971'' for ''sections 1971(d) and (e)''.

Pub. L. 103–337, §651(d)(2), substituted ''subparagraph (C) or (D) of section 1965(5)'' for ''section 1965(5)(C)''.

1991—Pub. L. 102–83, §5(a), renumbered section 769 of this title as this section.

Subsec. (a). Pub. L. 102–83, §5(c)(1), substituted ''1965(5)(B)'' for ''765(5)(B)'', ''1965(5)(C)'' for ''765(5)(C)'', and ''1966'' for ''766'' in par. (2).

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d)(1). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d)(2). Pub. L. 102–83, §5(c)(1), substituted ''1966'' for ''766''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d)(3). Pub. L. 102–83, §5(c)(1), substituted ''1982'' for ''782''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (e). Pub. L. 102–83, §5(c)(1), substituted ''1965(5)(C)'' for ''765(5)(C)'', ''1971(a)'' for ''771(a)'', ''1966(b)'' for ''766(b)'', and ''1971(d)'' for ''771(d)''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (f). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Subsec. (g). Pub. L. 100–322 added subsec. (g).

1986—Subsec. (a)(1). Pub. L. 99–576, §701(39)(A), substituted ''the member's'' for ''his''.

Subsec. (a)(3). Pub. L. 99–576, §701(39)(B), substituted ''the member'' for ''him''.

Subsec. (a)(4). Pub. L. 99–576, §701(39)(C), substituted ''the member'' for ''him'' in two places and ''the member's'' for ''his''.

Subsec. (b). Pub. L. 99–576, § 701(39)(D), substituted ''the Administrator'' for ''he'' before ''shall determine''.

Subsec. (d)(3). Pub. L. 99–576, § 701(39)(E), substituted ''the Administrator's'' for ''his''.

Subsec. (e). Pub. L. 99–576, § 701(39)(F), substituted ''the Administrator'' for ''he'' before ''may determine''.

1981—Subsec. (f). Pub. L. 97–66 added subsec. (f).

1974—Subsec. (a)(1). Pub. L. 93–289, § 6(1), substituted ''is insured under Servicemen's Group Life Insurance'' for ''is insured under a policy of insurance purchased by the Administrator, under section 766 of this title''.

Subsec. (a)(2). Pub. L. 93–289, § 6(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 93–289, § 6(1), (2), redesignated former par. (2) as (3), and substituted ''is insured under Servicemen's Group Life Insurance'' for ''is insured under a policy of insurance purchased by the Administrator, under section 766 of this title.'' Former par. (3) redesignated (4).

Subsec. (a)(4). Pub. L. 93–289, § 6(2), (3), redesignated former par. (3) as (4), and substituted ''paragraph (1) or (2) hereof, or fiscal year amount under paragraph (3) hereof'', for ''subsection (1) hereof, or fiscal year amount under subsection (2) hereof'', and ''Servicemen's Group Life Insurance'' for ''this subchapter'' in two places, and for ''insurance under this subchapter''.

Subsec. (b). Pub. L. 93–289, § 6(4), substituted ''Servicemen's Group Life Insurance'' for ''such insurance'' in first sentence, and ''Servicemen's Group Life Insurance'' for ''this subchapter'' in second sentence.

Subsec. (c). Pub. L. 93–289, § 6(5), substituted ''Servicemen's Group Life Insurance'' for ''any such insurance''.

Subsec. (d)(1). Pub. L. 93–289, § 6(6), substituted ''Servicemen's Group Life Insurance'' for ''any insurance policy or policies purchased under section 766 of this title''.

Subsec. (d)(3). Pub. L. 93–289, § 10(2), capitalized ''Operating Expenses''.

Subsec. (e). Pub. L. 93–289, § 6(7), added subsec. (e).

1970—Subsec. (a). Pub. L. 91–291, § 4(1), separated provisions covering deduction of the cost of insurance from the pay of members into provisions covering such deduction in the case of persons on active duty or active duty for training under a call or order to such duty that does not specify a period of not less than thirty-one days and provisions covering such deduction in the case of persons on active duty or active duty for training under a call or order to such duty specifying a period of less than thirty-one days or persons authorized or required to perform inactive duty training scheduled in advance by competent authority and inserted provision for the collection of sums from individuals by the Secretary concerned.

Subsec. (b). Pub. L. 91–291, § 4(1), substituted the mortality which members and former members of the uniform services concerned would have been under peacetime conditions as determined by the Administrator for the mortality of the male civilian population of the United States of the same age as the median age of members of the uniformed services as shown by the records of the uniformed services, the primary insurer or insurers, and the Department of Health, Education, and Welfare as the standard against which the excess mortality suffered by members of the uniformed services would be measured to determine the extent to which the cost of insurance was traceable to the extra hazard of active duty in the uniformed services.

Subsec. (d)(1). Pub. L. 91–291, § 4(2), inserted reference to collection of sums by Secretary concerned.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–14 effective on the first day of the first month that begins more than 120 days after June 5, 2001, see section 4(g)(1) of Pub. L. 107–14, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective Apr. 1, 1996, see section 647(c) of Pub. L. 104–106, set out as a note under section 1968 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 332(b) of Pub. L. 100–322 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect with respect to premiums paid for periods beginning after June 30, 1988.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

§ 1970. Beneficiaries; payment of insurance

(a) Any amount of insurance under this subchapter in force on any member or former member on the date of the insured's death shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date of the insured's death, in the following order of precedence:

First, to the beneficiary or beneficiaries as the member or former member may have designated by a writing received prior to death (1) in the uniformed services if insured under Servicemembers' Group Life Insurance, or (2) in the administrative office established under section 1966(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemembers' Group Life Insurance, or if insured under Veterans' Group Life Insurance;

Second, if there be no such beneficiary, to the widow or widower of such member or former member;

Third, if none of the above, to the child or children of such member or former member and descendants of deceased children by representation;

Fourth, if none of the above, to the parents of such member or former member or the survivor of them;

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of such member or former member;

Sixth, if none of the above, to other next of kin of such member or former member entitled under the laws of domicile of such member or former member at the time of the insured's death.

(b) If any person otherwise entitled to payment under this section does not make claim therefor within one year after the death of the member or former member, or if payment to such person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if such person had predeceased the member or former member, and any such payment shall be a bar to recovery by any other person.

(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Secretary nor the administrative office established by the insurance company or companies pursuant to section 1966(b) of this title has received any notice that any such

claim will be made, payment may be made to a claimant as may in the judgment of the Secretary be equitably entitled thereto, and such payment shall be a bar to recovery by any other person.

(d) The member may elect settlement of insurance under this subchapter either in a lump sum or in thirty-six equal monthly installments. If no such election is made by the member the beneficiary or beneficiaries may elect settlement either in a lump sum or in thirty-six equal monthly installments. If the member has elected settlement in a lump sum, the beneficiary or beneficiaries may elect settlement in thirty-six equal monthly installments.

(e) Until and unless otherwise changed, a beneficiary designation and settlement option filed by a member with the member's uniformed service under prior provisions of law will be effective with respect to the increased insurance authorized under the Veterans' Insurance Act of 1974 and the insurance shall be settled in the same proportionate amount as the portion designated for such beneficiary or beneficiaries bore to the amount of insurance heretofore in effect.

(f) Notwithstanding the provisions of any other law, payment of matured Servicemembers' Group Life Insurance or Veterans' Group Life Insurance benefits may be made directly to a minor widow or widower on his or her own behalf, and payment in such case shall be a complete acquittance to the insurer.

(g) Any payments due or to become due under Servicemembers' Group Life Insurance or Veterans' Group Life Insurance made to, or on account of, an insured or a beneficiary shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to (1) collection of amounts not deducted from the member's pay, or collected from him by the Secretary concerned under section 1969(a) of this title, (2) levy under subchapter D of chapter 64 of the Internal Revenue Code of 1986 (26 U.S.C. 6331 et seq.) (relating to the seizure of property for collection of taxes), and (3) the taxation of any property purchased in part or wholly out of such payments.

(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any amount to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.

(i) Any amount of insurance in force on an insurable dependent of a member under this subchapter on the date of the dependent's death shall be paid, upon the establishment of a valid claim therefor, to the member or, in the event of the member's death before payment to the member can be made, then to the person or persons entitled to receive payment of the proceeds of insurance on the member's life under this subchapter.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 883, § 770; amended Pub. L. 91–291, § 5, June 25, 1970, 84 Stat. 330; Pub. L. 93–289, § 7, May 24, 1974, 88 Stat. 169; Pub. L. 97–295, § 4(31), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 97–306, title IV, § 401(a), Oct. 14, 1982, 96 Stat. 1442; Pub. L. 99–576, title VII, § 701(40), Oct. 28, 1986, 100 Stat. 3294; Pub. L. 102–54, § 14(b)(17), June 13, 1991, 105 Stat. 284; renumbered § 1970 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–275, title IV, § 405(b)(1)(D), Oct. 9, 1996, 110 Stat. 3339; Pub. L. 105–368, title III, § 302(b), Nov. 11, 1998, 112 Stat. 3333; Pub. L. 107–14, § 4(e), June 5, 2001, 115 Stat. 29.)

REFERENCES IN TEXT

Veterans' Insurance Act of 1974, referred to in subsec. (e), is Pub. L. 93–289, May 24, 1974, 88 Stat. 165, as amended, which enacted sections 777, 778, and 779 [now 1977, 1978, and 1979] of this title, section 707 of Title 37, Pay and Allowances of the Uniformed Services, amended sections 723, 765, 767 to 771, and 774 [now 1923, 1965, 1967 to 1971, and 1974] of this title, and enacted provisions set out as notes under sections 723, 765, 767, and 768 [now 1923, 1965, 1967, and 1968] of this title and section 707 of Title 37. For complete classification of this Act to the Code, see Tables.

Subchapter D of chapter 64 of the Internal Revenue Code of 1986, referred to in subsec. (g)(3), is classified to subchapter D (§ 6331 et seq.) of chapter 64 of Title 26, Internal Revenue Code.

AMENDMENTS

2001—Subsec. (i). Pub. L. 107–14 added subsec. (i).

1998—Subsec. (g). Pub. L. 105–368, in first sentence, substituted "Any payments" for "Payments of benefits" and inserted "an insured or" after "or on account of,".

1996—Subsecs. (a), (f), (g). Pub. L. 104–275 substituted "Servicemembers' Group" for "Servicemen's Group" wherever appearing.

1991—Pub. L. 102–83, § 5(a), renumbered section 770 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "1966(b)" for "766(b)".

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted "1966(b)" for "766(b)".

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Subsec. (g)(1). Pub. L. 102–83, § 5(c)(1), substituted "1969(a)" for "769(a)".

Subsec. (g)(2). Pub. L. 102–54 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1986—Subsec. (a). Pub. L. 99–576, § 701(40)(A), substituted "the insured's" for "his" in two places in introductory text and in one place in par. Sixth.

Subsec. (e). Pub. L. 99–576, § 701(40)(B), substituted "the member's" for "his".

1982—Subsec. (c). Pub L. 97–306, § 401(a)(1), struck out provision that if, within four years after the death of the member or former member, payment had not been made pursuant to this section and no claim for payment by any person entitled under this section was pending, the amount payable would escheat to the credit of the revolving fund referred to in section 769(d) of this title.

Subsec. (g). Pub. L. 97–295 inserted "(26 U.S.C. 6331 et seq.)" after "Code of 1954".

Subsec. (h). Pub. L. 97–306, § 401(a)(2), added subsec. (h).

1974—Subsec. (a). Pub. L. 93–289, § 7(1), included in par. First writings received in the administrative office established under section 766(b) of this title if separated or released from service, or if assigned to the Retired Reserve, and insured under Servicemen's Group Life In-

surance, or if insured under Veterans' Group Life Insurance.

Subsec. (e). Pub. L. 93–289, § 7(2), substituted ''the Veterans' Insurance Act of 1974'' for ''this amendatory Act''.

Subsecs. (f), (g). Pub. L. 93–289, § 7(3), included payment of benefits under Veterans' Group Life Insurance.

1970—Subsecs. (e) to (g). Pub. L. 91–291 added subsecs. (e) to (g).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–14 effective on the first day of the first month that begins more than 120 days after June 5, 2001, see section 4(g)(1) of Pub. L. 107–14, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title III, § 302(c), Nov. 11, 1998, 112 Stat. 3333, provided that: ''The amendments made by this section [enacting section 1980 of this title and amending this section] shall take effect 90 days after the date of the enactment of this Act [Nov. 11, 1998].''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 401(b) of Pub. L. 97–306 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1982.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

§ 1971. Basic tables of premiums; readjustment of rates

(a) Each policy or policies purchased under section 1966 of this title shall include for the first policy year a schedule of basic premium rates by age which the Secretary shall have determined on a basis consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers, this schedule of basic premium rates by age to be applied, except as otherwise provided in this section, to the distribution by age of the amount of group life insurance under the policy at its date of issue to determine an average basic premium per $1,000 of insurance. Each policy so purchased shall also include provisions whereby the basic rates of premium determined for the first policy year shall be continued for subsequent policy years, except that they may be readjusted for any subsequent year, based on the experience under the policy, such readjustment to be made by the insurance company or companies issuing the policy on a basis determined by the Secretary in advance of such year to be consistent with the general practice of life insurance companies under policies of group life insurance issued to large employers.

(b) The total premiums for Servicemembers' Group Life Insurance shall be the sum of the amounts computed according to the provisions of subsection (a) above and the estimated cost traceable to the extra hazard of active duty in the uniformed services as determined by the Secretary, subject to the provision that such estimated costs traceable to the extra hazard shall be retroactively readjusted annually in accordance with section 1969(b).

(c) Each policy so purchased shall include a provision that, in the event the Secretary determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any subsequent year of insurance thereunder would not be possible except at a disproportionately high expense, the Secretary may approve the determination of a tentative average group life premium, for the first or any subsequent policy year, in lieu of using the actual age distribution. Such tentative average premium rate shall be redetermined by the Secretary during any policy year upon request by the insurance company or companies issuing the policy, if experience indicates that the assumptions made in determining the tentative average premium rate for that policy year were incorrect.

(d) Each policy so purchased shall contain a provision stipulating the maximum expense and risk charges for the first policy year, which charges shall have been determined by the Secretary on a basis consistent with the general level of such charges made by life insurance companies under policies of group life insurance issued to large employers. Such maximum charges shall be continued from year to year, except that the Secretary may redetermine such maximum charges for any year either by agreement with the insurance company or companies issuing the policy or upon written notice given by the Secretary to such companies at least one year in advance of the beginning of the year for which such redetermined maximum charges will be effective.

(e) Each such policy shall provide for an accounting to the Secretary not later than ninety days after the end of each policy year, which shall set forth, in a form approved by the Secretary, (1) the amounts of premiums actually accrued under the policy from its date of issue to the end of such policy year, (2) the total of all mortality and other claim charges incurred for that period, and (3) the amounts of the insurers' expense and risk charge for that period. Any excess of the total of item (1) over the sum of items (2) and (3) shall be held by the insurance company or companies issuing the policy as a special contingency reserve to be used by such insurance company or companies for charges under such policy only, such reserve to bear interest at a rate to be determined in advance of each policy year by the insurance company or companies issuing the policy, which rate shall be approved by the Secretary as being consistent with the rates generally used by such company or companies for similar funds held under other group life insurance policies. If and when the Secretary determines that such special contingency reserve has attained an amount estimated by the Secretary to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited to the credit of the revolving fund established under section 1969(d)(1) of this title. If and when such policy is discontinued, and if after all charges have been made, there is any positive balance remaining in such special contingency reserve, such balance shall be deposited to the credit of the revolving fund, subject to the right of the insurance company or companies issuing the policy to make such de-

posit in equal monthly installments over a period of not more than two years.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 884, § 771; amended Pub. L. 93–289, § 8, May 24, 1974, 88 Stat. 169; renumbered § 1971 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–275, title IV, § 405(b)(1)(E), Oct. 9, 1996, 110 Stat. 3339.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–275 substituted ''Servicemembers' Group'' for ''Servicemen's Group''.

1991—Pub. L. 102–83, § 5(a), renumbered section 771 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1966'' for ''766''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1969(b)'' for ''769(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsecs. (c), (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1969(d)(1)'' for ''769(d)(1)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1974—Subsec. (b). Pub. L. 93–289, § 8(1), substituted ''premiums for Servicemen's Group Life Insurance'' for ''premiums for the policy or policies''.

Subsec. (e). Pub. L. 93–289, § 8(2), substituted ''section 769(d)(1) of this title'' for ''section 766 of this title''.

§ 1972. Benefit certificates

The Secretary shall arrange to have each member insured under a policy purchased under section 1966 of this title receive a certificate setting forth the benefits to which the member is entitled thereunder, to whom such benefit shall be payable, to whom claims should be submitted, and summarizing the provisions of the policy principally affecting the member. Such certificate shall be in lieu of the certificate which the insurance company or companies would otherwise be required to issue.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 885, § 772; renumbered § 1972 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 772 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1966'' for ''766''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

§ 1973. Forfeiture

Any person guilty of mutiny, treason, spying, or desertion, or who, because of conscientious objections, refuses to perform service in the Armed Forces of the United States or refuses to wear the uniform of such force, shall forfeit all rights to Servicemembers' Group Life Insurance under this subchapter. No such insurance shall be payable for death inflicted as a lawful punishment for crime or for military or naval offense, except when inflicted by an enemy of the United States.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 885, § 773; renumbered § 1973, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 104–275, title IV, § 405(b)(1)(F), Oct. 9, 1996, 110 Stat. 3339.)

AMENDMENTS

1996—Pub. L. 104–275 substituted ''Servicemembers' Group'' for ''Servicemen's Group''.

1991—Pub. L. 102–83 renumbered section 773 of this title as this section.

§ 1974. Advisory Council on Servicemembers' Group Life Insurance

(a) There is an Advisory Council on Servicemembers' Group Life Insurance. The council consists of—

(1) the Secretary of the Treasury, who is the chairman of the council;

(2) the Secretary of Defense;

(3) the Secretary of Commerce;

(4) the Secretary of Health and Human Services;

(5) the Secretary of Homeland Security; and

(6) the Director of the Office of Management and Budget.

Members of the council shall serve without additional compensation.

(b) The council shall meet at least once a year, or more often at the call of the Secretary of Veterans Affairs. The council shall review the operations of the Department under this subchapter and shall advise the Secretary on matters of policy relating to the Secretary's activities under this subchapter.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 885, § 774; amended Pub. L. 91–291, § 6, June 25, 1970, 84 Stat. 331; Pub. L. 93–289, § 10(3), May 24, 1974, 88 Stat. 172; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 99–576, title VII, § 701(41), Oct. 28, 1986, 100 Stat. 3294; Pub. L. 102–54, § 14(b)(18), June 13, 1991, 105 Stat. 284; renumbered § 1974, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title IV, § 405(b)(1)(G), (2)(B), Oct. 9, 1996, 110 Stat. 3339; Pub. L. 108–183, title VII, § 708(a)(4), Dec. 16, 2003, 117 Stat. 2673.)

AMENDMENTS

2003—Subsec. (a)(5). Pub. L. 108–183 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

1996—Pub. L. 104–275, § 405(b)(2)(B), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' in section catchline.

Subsec. (a). Pub. L. 104–275, § 405(b)(1)(G), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' in introductory provisions.

1991—Pub. L. 102–83 renumbered section 774 of this title as this section.

Pub. L. 102–54 amended section generally. Prior to amendment, section read as follows: ''There is hereby established an Advisory Council on Servicemen's Group Life Insurance consisting of the Secretary of the Treasury as Chairman, the Secretary of Defense, the Secretary of Commerce, the Secretary of Health and Human Services, the Secretary of Transportation, and the Director of the Office of Management and Budget each of whom shall serve without additional compensation. The Council shall meet once a year, or oftener at the call of the Administrator, and shall review the operations under this subchapter and advise the Administrator on matters of policy relating to the Administrator activities thereunder.''

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''his'' before ''activities''.

1982—Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1974—Pub. L. 93–289 substituted ''Office of Management and Budget'' for ''Bureau of the Budget''.

1970—Pub. L. 91–291 added the Secretary of Transportation to the membership of the Advisory Council on Servicemen's Group Life Insurance.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–291 effective June 25, 1970, see section 14(a) of Pub. L. 91–291, set out as a note under section 1317 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1975. Jurisdiction of District Courts

The district courts of the United States shall have original jurisdiction of any civil action or claim against the United States founded upon this subchapter.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 885, § 775; renumbered § 1975, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 775 of this title as this section.

§ 1976. Effective date

The insurance provided for in this subchapter and the deductions and contributions for that purpose shall take effect on the date designated by the Secretary and certified by the Secretary to each Secretary concerned.

(Added Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 885, § 776; amended Pub. L. 99–576, title VII, § 701(42), Oct. 28, 1986, 100 Stat. 3294; renumbered § 1976 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 776 of this title as this section and substituted ''Secretary'' for ''Administrator'' in two places.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''him'' after ''certified by''.

INTERIM COVERAGE UNTIL EFFECTIVE DATE OF GROUP PLAN; $5,000 DEATH GRATUITY

Section 3 of Pub. L. 89–214, as amended by Pub. L. 89–730, § 6(a)–(d), Nov. 2, 1966, 80 Stat. 1159, provided for payment of a death gratuity of up to $5,000 in certain cases of death of veterans while in active military, naval, or air service during the period from Jan. 1, 1957, to the date immediately preceding the date on which the Servicemen's Group Life Insurance program was placed in effect under this section, and required that an application for such gratuity had to be made within one year after Sept. 29, 1965.

Pub. L. 89–730, § 6(e), Nov. 2, 1966, 80 Stat. 1159, provided that any waiver of future benefits executed by any person under section 3(a) of Pub. L. 89–214 (see above), as in effect prior to Nov. 2, 1966, was to have no effect.

Pub. L. 89–730, § 6(f), Nov. 2, 1966, 80 Stat. 1159, provided that in any case in which the death gratuity paid to any person under section 3 of Pub. L. 89–214 (see above), was reduced pursuant to clause (B) of subsection (c)(1) of such section, as in effect prior to Nov. 2, 1966, the Administrator of Veterans' Affairs was to pay to such person an amount equal to the amount by which such death gratuity was reduced.

Pub. L. 89–730, § 6(g), Nov. 2, 1966, 80 Stat. 1159, provided that notwithstanding the time limitation prescribed in section 3(a) of Pub. L. 89–214 (see above), any application for death gratuity filed under such section shall be valid if filed within one year after Nov. 2, 1966.

§ 1977. Veterans' Group Life Insurance

(a)(1) Veterans' Group Life Insurance shall be issued in the amounts specified in section 1967(a) of this title. In the case of any individual, the amount of Veterans' Group Life Insurance may not exceed the amount of Servicemembers' Group Life Insurance coverage continued in force after the expiration of the period of duty or travel under section 1967(b) or 1968(a) of this title. No person may carry a combined amount of Servicemembers' Group Life Insurance and Veterans' Group Life Insurance in excess of $250,000 at any one time.

(2) If any person insured under Veterans' Group Life Insurance again becomes insured under Servicemembers' Group Life Insurance but dies before terminating or converting such person's Veterans' Group Insurance, Veterans' Group Life Insurance shall be payable only if such person is insured for less than $250,000 under Servicemembers' Group Life Insurance, and then only in an amount which, when added to the amount of Servicemembers' Group Life Insurance payable, does not exceed $250,000.

(b) Veterans' Group Life Insurance shall (1) provide protection against death; (2) be issued on a renewable five-year term basis; (3) have no cash, loan, paid-up, or extended values; (4) except as otherwise provided, lapse for nonpayment of premiums; and (5) contain such other terms and conditions as the Secretary determines to be reasonable and practicable which are not specifically provided for in this section, including any provisions of this subchapter not specifically made inapplicable by the provisions of this section.

(c) The premiums for Veterans' Group Life Insurance shall be established under the criteria set forth in sections 1971(a) and (c) of this title, except that the Secretary may provide for average premiums for such various age groupings as the Secretary may decide to be necessary according to sound actuarial principles, and shall include an amount necessary to cover the administrative cost of such insurance to the company or companies issuing such insurance. Such premiums shall be payable by the insureds thereunder as provided by the Secretary directly to the administrative office established for such insurance under section 1966(b) of this title. In any case in which a member or former member who was mentally incompetent on the date such member or former member first became insured under Veterans' Group Life Insurance dies within one year of such date, such insurance shall be deemed not to have lapsed for nonpayment of premiums and to have been in force on the date of death. Where insurance is in force under the

preceding sentence, any unpaid premiums may be deducted from the proceeds of the insurance. Any person who claims eligibility for Veterans' Group Life Insurance based on disability incurred during a period of duty shall be required to submit evidence of qualifying health conditions and, if required, to submit to physical examinations at their own expense.

(d) Any amount of Veterans' Group Life Insurance in force on any person on the date of such person's death shall be paid, upon the establishment of a valid claim therefor, pursuant to the provisions of section 1970 of this title. However, any designation of beneficiary or beneficiaries for Servicemembers' Group Life Insurance filed with a uniformed service until changed, shall be considered a designation of beneficiary or beneficiaries for Veterans' Group Life Insurance, but not for more than sixty days after the effective date of the insured's Veterans' Group Insurance, unless at the end of such sixty-day period, the insured is incompetent in which event such designation may continue in force until the disability is removed but not for more than five years after the effective date of the insured's Veterans' Group Life Insurance. Except as indicated above in incompetent cases, after such sixty-day period, any designation of beneficiary or beneficiaries for Veterans' Group Life Insurance to be effective must be by a writing signed by the insured and received by the administrative office established under section 1966(b) of this title.

(e) An insured under Veterans' Group Life Insurance shall have the right at any time to convert such insurance to an individual policy of life insurance upon written application for conversion made to the participating company the insured selects and payment of the required premiums. The individual policy will be issued without medical examination on a plan then currently written by such company which does not provide for the payment of any sum less than the face value thereof or for the payment of an additional amount as premiums in the event the insured performs active duty, active duty for training, or inactive duty training. The Veterans' Group Life Insurance policy converted to an individual policy under this subsection shall terminate on the day before the date on which the individual policy becomes effective. Upon request to the administrative office established under section 1966(b) of this title, an insured under Veterans' Group Life Insurance shall be furnished a list of life insurance companies participating in the program established under this subchapter. In addition to the life insurance companies participating in the program established under this subchapter, the list furnished to an insured under this section shall include additional life insurance companies (not so participating) which meet qualifying criteria, terms, and conditions established by the Secretary and agree to sell insurance to former members in accordance with the provisions of this section.

(f) The provisions of subsections (d) and (e) of section 1971 of this title shall be applicable to Veterans' Group Life Insurance. However, a separate accounting shall be required for each program of insurance authorized under this subchapter. In such accounting, the Secretary is authorized to allocate claims and other costs among such programs of insurance according to accepted actuarial principles.

(g) Any person whose Servicemembers' Group Life Insurance was continued in force after termination of duty or discharge from service under the law as in effect prior to the date on which the Veterans' Group Life Insurance program (provided for under section 1977 of this title) became effective, and whose coverage under Servicemembers' Group Life Insurance terminated less than four years prior to such date, shall be eligible within one year from the effective date of the Veterans' Group Life Insurance program to apply for and be granted Veterans' Group Life Insurance in an amount equal to the amount of the insured's Servicemembers' Group Life Insurance which was not converted to an individual policy under prior law. Veterans' Group Life Insurance issued under this subsection shall be issued for a term period equal to five years, less the time elapsing between the termination of the applicant's Servicemembers' Group Life Insurance and the effective date on which the Veterans' Group Life Insurance program became effective. Veterans' Group Life Insurance under this subsection shall only be issued upon application to the administrative office established under section 1966(b) of this title, payment of the required premium, and proof of good health satisfactory to that office, which proof shall be submitted at the applicant's own expense. Any person who cannot meet the good health requirements for insurance under this subsection solely because of a service-connected disability shall have such disability waived. For each month for which any eligible veteran, whose service-connected disabilities are waived, is insured under this subsection there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation ''Compensation and Pensions, Department of Veterans Affairs'' an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of the excess mortality attributable to such veteran's service-connected disabilities. The Secretary may establish, as the Secretary may determine to be necessary according to sound actuarial principles, a separate premium, age groupings for premium purposes, accounting, and reserves, for persons granted insurance under this subsection different from those established for other persons granted insurance under this section. Appropriations to carry out the purpose of this section are hereby authorized.

(h)(1) Notwithstanding any other provision of law, members of the Individual Ready Reserve and the Inactive National Guard are eligible to be insured under Veterans' Group Life Insurance. Any such member shall be so insured upon submission of an application in the manner prescribed by the Secretary and the payment of premiums as required under this section.

(2) In accordance with subsection (b), Veterans' Group Life Insurance coverage under this subsection shall be issued on a renewable five-year term basis, but the person insured must remain a member of the Individual Ready Reserve

or Inactive National Guard throughout the period of the insurance in order for the insurance of such person to be renewed.

(3) For the purpose of this subsection, the terms ''Individual Ready Reserve'' and ''Inactive National Guard'' shall have the meanings prescribed by the Secretary in consultation with the Secretary of Defense.

(Added Pub. L. 93–289, § 9(a), May 24, 1974, 88 Stat. 169, § 777; amended Pub. L. 97–66, title IV, § 401(b), Oct. 17, 1981, 95 Stat. 1031; Pub. L. 99–166, title IV, § 401(b), Dec. 3, 1985, 99 Stat. 957; Pub. L. 99–576, title VII, § 701(43), Oct. 28, 1986, 100 Stat. 3294; Pub. L. 102–25, title III, § 336(b), Apr. 6, 1991, 105 Stat. 90; renumbered § 1977 and amended Pub. L. 102–83, §§ 4(a)(2)(B)(iii), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–568, title II, § 202, Oct. 29, 1992, 106 Stat. 4324; Pub. L. 103–446, title XII, § 1201(e)(9), Nov. 2, 1994, 108 Stat. 4685; Pub. L. 104–275, title IV, §§ 403(b), 405(b)(1)(H), 406, Oct. 9, 1996, 110 Stat. 3338–3340; Pub. L. 106–419, title III, § 312(b), Nov. 1, 2000, 114 Stat. 1854.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–419 substituted ''$250,000'' for ''$200,000'' in par. (1) and two places in par. (2).

1996—Subsec. (a). Pub. L. 104–275, § 403(b)(1), designated existing provisions as par. (1), struck out at end ''Any person insured under Veterans' Group Life Insurance who again becomes insured under Servicemen's Group Life Insurance may within 60 days after becoming so insured convert any or all of such person's Veterans' Group Life Insurance to an individual policy of insurance under subsection (e). However, if such a person dies within the 60-day period and before converting such person's Veterans' Group Life Insurance, Veterans' Group Life Insurance will be payable only if such person is insured for less than $200,000 under Servicemen's Group Life Insurance, and then only in an amount which when added to the amount of Servicemen's Group Life Insurance payable shall not exceed $200,000.'', and added par. (2).

Subsec. (a)(1). Pub. L. 104–275, § 406, struck out ''and (e)'' after ''section 1967(a)'' and after ''section 1967(b)''.

Pub. L. 104–275, § 405(b)(1)(H), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' in two places.

Subsec. (d). Pub. L. 104–275, § 405(b)(1)(H), substituted ''Servicemembers' Group'' for ''Servicemen's Group''.

Subsec. (e). Pub. L. 104–275, § 403(b)(2), inserted ''at any time'' after ''shall have the right'' in first sentence and substituted as third sentence ''The Veterans' Group Life Insurance policy converted to an individual policy under this subsection shall terminate on the day before the date on which the individual policy becomes effective.'' for ''The individual policy will be effective the day after the insured's Veterans' Group Life Insurance terminates by expiration of the five-year term period, except in a case where the insured is eligible to convert at an earlier date by reason of again having become insured under Servicemen's Group Life Insurance, in which event the effective date of the individual policy may not be later than the sixty-first day after the insured again became so insured.''

Subsec. (g). Pub. L. 104–275, § 405(b)(1)(H), substituted ''Servicemembers' Group'' for ''Servicemen's Group'' wherever appearing.

1994—Subsec. (f). Pub. L. 103–446 substituted ''subsections (d) and (e) of section 1971'' for ''sections 1971(d) and (e)''.

1992—Subsec. (a). Pub. L. 102–568, § 202(1), inserted ''and (e)'' after ''1967(a)'' and after ''1967(b)'', substituted ''$200,000'' for ''$100,000'' wherever appearing, ''60 days'' for ''sixty days'', and ''60-day period'' for ''sixty-day period'', and struck out ''of this section'' after ''subsection (e)''.

Subsec. (b)(2). Pub. L. 102–568, § 202(2), substituted ''renewable'' for ''nonrenewable''.

Subsec. (h)(2). Pub. L. 102–568, § 202(3), substituted ''In accordance with subsection (b)'' for ''Notwithstanding subsection (b)(2) of this section''.

1991—Pub. L. 102–83, § 5(a), renumbered section 777 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1967(a)'' for ''767(a)'' and ''1967(b) or 1968(a)'' for ''767(b) or 768(a)''.

Pub. L. 102–25 substituted ''$100,000'' for ''$50,000'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1971(a)'' for ''771(a)'' and ''1966(b)'' for ''766(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1970'' for ''770'' and ''1966(b)'' for ''766(b)''.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1966(b)'' for ''766(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted ''1971(d)'' for ''771(d)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted ''1977'' for ''777'' and ''1966(b)'' for ''766(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(2)(B)(iii), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (h)(1), (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (a). Pub. L. 99–576, § 701(43)(A), substituted ''such person's'' for ''his'' in two places and ''such person'' for ''he''.

Subsec. (c). Pub. L. 99–576, § 701(43)(B), substituted ''the Administrator'' for ''he'' in first sentence and ''such member or former member'' for ''he'' in third sentence.

Subsec. (d). Pub. L. 99–576, § 701(43)(C), substituted ''such person's'' for ''his''.

Subsec. (e). Pub. L. 99–576, § 701(43)(D), substituted ''the insured'' for ''he'' in first and third sentences.

Subsec. (g). Pub. L. 99–576, § 701(43)(E), substituted ''the insured's'' for ''his'' and ''the Administrator'' for ''he''.

1985—Subsec. (a). Pub. L. 99–166, § 401(b)(1), substituted ''Veterans' Group Life Insurance shall be issued in the amounts specified in section 767(a) of this title. In the case of any individual, the amount of Veterans' Group Life Insurance may not exceed the amount of Servicemen's Group Life Insurance coverage continued in force after the expiration of the period of duty or travel under section 767(b) or 768(a) of this title'' for ''Veterans' Group Life Insurance shall be issued in the amount of $5,000, $10,000, $15,000, $20,000, $25,000, $30,000 or $35,000 only'' and ''$50,000'' for ''$35,000'' in three places.

Subsec. (h). Pub. L. 99–166, § 401(b)(2), added subsec. (h).

1981—Subsec. (a). Pub. L. 97–66 inserted figures of $25,000, $30,000, and $35,000 to the enumeration of allowable amounts in which Veterans' Group Life Insurance may be issued, and substituted $35,000 for $20,000 as the maximum amount of combined Servicemen's Group Life Insurance and Veterans' Group Life Insurance which a person may carry at any one time and as the figure covering situations in which a person insured under Veterans' Group Life Insurance dies within the sixty-day period after having again become insured under Servicemen's Group Life Insurance before converting his Veterans' Group Life Insurance to an individual policy.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective on the first day of the first month that begins more than 120 days after Nov. 1, 2000, see section 312(c) of Pub. L. 106–419, set out as a note under section 1967 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–568 effective Dec. 1, 1992, see section 205 of Pub. L. 102–568, set out as an Effective Date note under section 1922A of this title.

EFFECTIVE DATE OF 1985 AMENDMENT

Amendment by Pub. L. 99–166 effective Jan. 1, 1986, see section 401(c)(1) of Pub. L. 99–166, set out as a note under section 1967 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Dec. 1, 1981, see section 701(b)(2) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective first day of third calendar month following May 1974, see section 12(4) of Pub. L. 93–289, set out as an Effective Date of 1974 Amendment note under section 1968 of this title.

§ 1978. Reinstatement

Reinstatement of insurance coverage granted under this subchapter but lapsed for nonpayment of premiums shall be under terms and conditions prescribed by the Secretary.

(Added Pub. L. 93–289, § 9(a), May 24, 1974, 88 Stat. 172, § 778; renumbered § 1978 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 778 of this title as this section and substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section effective first day of third calendar month following May 1974, see section 12(4) of Pub. L. 93–289, set out as an Effective Date of 1974 Amendment note under section 1968 of this title.

§ 1979. Incontestability

Subject to the provision of section 1973 of this title, insurance coverage granted under this subchapter shall be incontestable from the date of issue, reinstatement, or conversion except for fraud or nonpayment of premium.

(Added Pub. L. 93–289, § 9(a), May 24, 1974, 88 Stat. 172, § 779; renumbered § 1979 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 779 of this title as this section and substituted ''1973'' for ''773''.

EFFECTIVE DATE

Section effective first day of third calendar month following May 1974, see section 12(4) of Pub. L. 93–289, set out as an Effective Date of 1974 Amendment note under section 1968 of this title.

§ 1980. Option to receive accelerated death benefit

(a) For the purpose of this section, a person shall be considered to be terminally ill if the person has a medical prognosis such that the life expectancy of the person is less than a period prescribed by the Secretary. The maximum length of such period may not exceed 12 months.

(b)(1) A terminally ill person insured under Servicemembers' Group Life Insurance or Veterans' Group Life Insurance may elect to receive in a lump-sum payment a portion of the face value of the insurance as an accelerated death benefit reduced by an amount necessary to assure that there is no increase in the actuarial value of the benefit paid, as determined by the Secretary.

(2) The Secretary shall prescribe the maximum amount of the accelerated death benefit available under this section that the Secretary finds to be administratively practicable and actuarially sound, but in no event may the amount of the benefit exceed the amount equal to 50 percent of the face value of the person's insurance in force on the date the election of the person to receive the benefit is approved.

(3) A person making an election under this section may elect to receive an amount that is less than the maximum amount prescribed under paragraph (2). The Secretary shall prescribe the increments in which a reduced amount under this paragraph may be elected.

(c) The portion of the face value of insurance which is not paid in a lump sum as an accelerated death benefit under this section shall remain payable in accordance with the provisions of this chapter.

(d) Deductions under section 1969 of this title and premiums under section 1977(c) of this title shall be reduced, in a manner consistent with the percentage reduction in the face value of the insurance as a result of payment of an accelerated death benefit under this section, effective with respect to any amounts which would otherwise become due on or after the date of payment under this section.

(e) The Secretary shall prescribe regulations to carry out this section. Such regulations shall include provisions regarding—

(1) the form and manner in which an application for an election under this section shall be made; and

(2) the procedures under which any such application shall be considered.

(f)(1) An election to receive a benefit under this section shall be irrevocable.

(2) A person may not make more than one election under this section, even if the election of the person is to receive less than the maximum amount of the benefit available to the person under this section.

(g) If a person insured under Servicemembers' Group Life Insurance elects to receive a benefit under this section and the person's Servicemembers' Group Life Insurance is thereafter converted to Veterans' Group Life Insurance as provided in section 1968(b) of this title, the amount of the benefit paid under this section shall reduce the amount of Veterans' Group Life Insurance available to the person under section 1977(a) of this title.

(h) Notwithstanding any other provision of law, the amount of the accelerated death benefit received by a person under this section shall not be considered income or resources for purposes

of determining eligibility for or the amount of benefits under any Federal or federally-assisted program or for any other purpose.

(Added Pub. L. 105–368, title III, § 302(a)(1), Nov. 11, 1998, 112 Stat. 3332.)

EFFECTIVE DATE

Section effective 90 days after Nov. 11, 1998, see section 302(c) of Pub. L. 105–368, set out as an Effective Date of 1998 Amendment note under section 1970 of this title.

SUBCHAPTER IV—GENERAL

AMENDMENTS

1965—Pub. L. 89–214, § 1(a), Sept. 29, 1965, 79 Stat. 880, redesignated ''SUBCHAPTER III—GENERAL'' as ''SUBCHAPTER IV—GENERAL''.

§ 1981. Replacement of surrendered and expired insurance

(a) Any person who surrendered a policy of National Service Life Insurance or United States Government life insurance on a permanent plan for its cash value while in the active service after April 24, 1951, and before January 1, 1957, who was entitled on December 31, 1958, to reinstate or replace such insurance under section 623 of the National Service Life Insurance Act of 1940, may, upon application in writing made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, be granted, without medical examination, permanent plan insurance on the same plan not in excess of the amount surrendered for cash, or may reinstate such surrendered insurance upon payment of the required reserve and the premium for the current month. Waiver of premiums and total disability income benefits otherwise authorized under this chapter shall not be denied in any case of issue or reinstatement of insurance on a permanent plan under this section or the prior corresponding provision of law in which it is shown to the satisfaction of the Secretary that total disability of the applicant began before the date of application. The cost of the premiums waived and total disability income benefits paid by virtue of the preceding sentence and the excess mortality cost in any case where the insurance matures by death from such total disability shall be borne by the United States and the Secretary shall transfer from time to time from the National Service Life Insurance appropriation to the National Service Life Insurance Fund and from the military and naval insurance appropriation to the United States Government Life Insurance Fund such sums as may be necessary to reimburse the funds for such costs.

(b) Any person who had United States Government life insurance or National Service Life Insurance on the five-year level premium term plan, the term of which expired while such person was in the active service after April 25, 1951, or within one hundred and twenty days after separation from such active service, and in either case before January 1, 1957, who was entitled on December 31, 1958, to replace such insurance under section 623 of the National Service Life Insurance Act of 1940, shall, upon application made while on continuous active duty which began before January 1, 1959, or within one hundred and twenty days after separation therefrom, payment of premiums and evidence of good health satisfactory to the Secretary, be granted an equivalent amount of insurance on the five-year level premium term plan at the premium rate for such person's then attained age.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1164, § 781; Pub. L. 99–576, title VII, § 701(44), Oct. 28, 1986, 100 Stat. 3294; renumbered § 1981 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

Section 623 of the National Service Life Insurance Act of 1940, referred to in subsecs. (a) and (b), is section 623 of act Oct. 8, 1940, ch. 757, title VI, pt. I, as added Aug. 1, 1956, ch. 837, title V, § 501(a)(4), 70 Stat. 880, which enacted section 824 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this section by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 781 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (b). Pub. L. 99–576 substituted ''such person'' for ''he'' and ''such person's'' for ''his''.

§ 1982. Administrative cost

Except as provided in sections 1920(c), 1923(d), and 1955(c) of this title, the United States shall bear the cost of administration in connection with this chapter, including expenses for medical examinations, inspections when necessary, printing and binding, and for such other expenditures as are necessary in the discretion of the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1165, § 782; renumbered § 1982 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–99, title II, § 201(b), Jan. 26, 1996, 110 Stat. 36.)

CODIFICATION

Amendment by Pub. L. 104–99 is based on section 107(4) of H.R. 2099, One Hundred Fourth Congress, as passed by the House of Representatives on Dec. 7, 1995, which was enacted into law by Pub. L. 104–99.

AMENDMENTS

1996—Pub. L. 104–99 substituted ''Except as provided in sections 1920(c), 1923(d), and 1955(c) of this title, the United States'' for ''The United States''.

1991—Pub. L. 102–83 renumbered section 782 of this title as this section and substituted ''Secretary'' for ''Administrator''.

§ 1983. Settlements for minors or incompetents

When an optional mode of settlement of National Service Life Insurance or United States Government life insurance heretofore or hereafter matured is available to a beneficiary who is a minor or incompetent, such option may be exercised by such beneficiary's fiduciary, person qualified under the Act of February 25, 1933 (25 U.S.C. 14), or person recognized by the Secretary as having custody of the person or the estate of such beneficiary, and the obligation of the

United States under the insurance contract shall be fully satisfied by payment of benefits in accordance with the mode of settlement so selected.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1165, § 783; Pub. L. 99–576, title VII, § 701(45), Oct. 28, 1986, 100 Stat. 3294; Pub. L. 102–54, § 14(b)(19), June 13, 1991, 105 Stat. 284; renumbered § 1983 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 783 of this title as this section and substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–54 substituted ''the Act of February 25, 1933 (25 U.S.C. 14)'' for ''section 14 of title 25''.

1986—Pub. L. 99–576 substituted ''such beneficiary's'' for ''his''.

§ 1984. Suits on insurance

(a) In the event of disagreement as to claim, including claim for refund of premiums, under contract of National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance between the Secretary and any person or persons claiming thereunder an action on the claim may be brought against the United States either in the United States District Court for the District of Columbia or in the district court of the United States in and for the district in which such person or any one of them resides, and jurisdiction is conferred upon such courts to hear and determine all such controversies. All persons having or claiming to have an interest in such insurance may be made parties to such suit, and such as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct. In all cases where the Secretary acknowledges the indebtedness of the United States upon any such contract of insurance and there is a dispute as to the person or persons entitled to payment, a suit in the nature of a bill of interpleader may be brought at the request of the Secretary in the name of the United States against all persons having or claiming to have any interest in such insurance in the United States District Court for the District of Columbia or in the district court in and for the district in which any such claimant resides; however, no less than thirty days before instituting such suit the Secretary shall mail a notice of such intention to each of the persons to be made parties to the suit. The courts of appeals for the several circuits, including the District of Columbia, shall respectively exercise appellate jurisdiction and, except as provided in section 1254 of title 28, the decrees of such courts of appeals shall be final.

(b) No suit on yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made. For the purposes of this section it shall be deemed that the right accrued on the happening of the contingency on which the claim is founded. The limitation of six years is suspended for the period elapsing between the filing with the Secretary of the claim sued upon and the denial of the claim. However, if a claim is timely filed the claimant shall have not less than ninety days from the date of mailing of notice of denial within which to file suit. After June 28, 1936, notice of denial of the claim under a contract of insurance shall be by registered mail or by certified mail directed to the claimant's last address of record. Infants, insane persons, or persons under other legal disability, or persons rated as incompetent or insane by the Secretary shall have three years in which to bring suit after the removal of their disabilities. If suit is seasonably begun and fails for defect in process, or for other reasons not affecting the merits, a new action, if one lies, may be brought within a year though the period of limitation has elapsed. No State or other statute of limitations shall be applicable to suits filed under this section.

(c) In any suit, action, or proceeding brought under the provisions of this section subpenas for witnesses who are required to attend a court of the United States in any district may run into any other district. However, no writ of subpena shall issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the permission of the court being first had upon proper application and cause shown. The word ''district'' and the words ''district court'' as used in this section shall be construed to include the District of Columbia and the United States District Court for the District of Columbia.

(d) Attorneys of the Department, when assigned to assist in the trial of cases, and employees of the Department when ordered in writing by the Secretary to appear as witnesses, shall be paid the regular travel and subsistence allowance paid to other employees when on official travel status.

(e) Part-time and fee-basis employees of the Department, in addition to their regular travel and subsistence allowance, when ordered in writing by the Secretary to appear as witnesses in suits under this section, may be allowed, within the discretion and under written orders of the Secretary, a fee in an amount not to exceed $50 per day.

(f) Employees of the Department who are subpenaed to attend the trial of any suit, under the provisions of this section, as witnesses for a party to such suit shall be granted court leave or authorized absence, as applicable, for the period they are required to be away from the Department in answer to such subpenas.

(g) Whenever a judgment or decree shall be rendered in an action brought under the provisions of this section, the court, as a part of its judgment or decree, shall determine and allow reasonable fees for the attorneys of the successful party or parties and apportion same if proper, said fees not to exceed 10 per centum of the amount recovered and to be paid by the Department out of the payments to be made under the judgment or decree at a rate not exceeding one-tenth of each of such payments until paid; except that, in a suit brought by or on behalf of an

insured during the insured's lifetime for waiver of premiums on account of total disability, the court, as part of its judgment or decree, shall determine and allow a reasonable fee to be paid by the insured to the insured's attorney.

(h) The term ''claim'' as used in this section means any writing which uses words showing an intention to claim insurance benefits; and the term ''disagreement'' means a denial of the claim, after consideration on its merits, by the Secretary or any employee or organizational unit of the Department heretofore or hereafter designated therefor by the Secretary.

(i) The Attorney General of the United States is authorized to agree to a judgment to be rendered by the chief judge of the United States court having jurisdiction of the case, pursuant to compromise approved by the Attorney General upon the recommendation of the United States attorney charged with the defense, upon such terms and for sums within the amount claimed to be payable, in any suit brought under the provisions of this section, on a contract of yearly renewable term insurance, and the Secretary shall make payments in accordance with any such judgment. The Comptroller General of the United States shall allow credit in the accounts of disbursing officers for all payments of insurance made in accordance with any such judgment. All such judgments shall constitute final settlement of the claim and no appeal therefrom shall be authorized.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1165, § 784; Pub. L. 86–507, § 1(32), June 11, 1960, 74 Stat. 202; Pub. L. 97–295, § 4(32), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 99–576, title VII, § 701(46), Oct. 28, 1986, 100 Stat. 3294; renumbered § 1984 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iii)(VII), (VIII), (D)(ii), (3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 784 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(2)(A)(iii)(VII), substituted ''Secretary'' for ''Veterans' Administration'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(a)(2)(D)(ii), substituted ''with the Secretary'' for ''in the Veterans' Administration''.

Pub. L. 102–83, § 4(a)(2)(A)(iii)(VIII), substituted ''Secretary'' for ''Veterans' Administration'' before ''shall''.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsecs. (f), (g). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (h). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (i). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (g). Pub. L. 99–576 substituted ''the insured's'' for ''his'' in two places.

1982—Subsec. (b). Pub. L. 97–295, § 4(32)(A), substituted ''the claim. However, if'' for ''said claim: *Provided*, That in any case in which''.

Subsec. (c). Pub. L. 97–295, § 4(32)(B), substituted ''district. However,'' for ''district: *Provided*, That'', and substituted ''in this section'' for ''herein'' after ''as used''.

1960—Subsec. (b). Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

§ 1985. Decisions by the Secretary

Except in the event of suit as provided in section 1984 of this title, or other appropriate court proceedings, all decisions rendered by the Secretary under the provisions of this chapter shall be final and conclusive on all questions of law or fact, and no other official of the United States shall have jurisdiction to review any such decisions.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1167, § 785; renumbered § 1985 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 785 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1984'' for ''784''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in section catchline and in text.

§ 1986. Deposits in and disbursements from trust funds

All cash balances in the United States Government Life Insurance Fund and the National Service Life Insurance Fund on January 1, 1959, together with all moneys thereafter accruing to such funds, including premiums, appropriated moneys, the proceeds of any sales of investments which may be necessary to meet current expenditures, and interest on investments, shall be available for disbursement for meeting all expenditures and making investments authorized to be made from such funds.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1167, § 786; renumbered § 1986, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 786 of this title as this section.

§ 1987. Penalties

(a) Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in anywise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any application for insurance or reinstatement thereof, waiver of premiums or claim for benefits under National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance for any person, shall be fined not more than $1,000, or be imprisoned for not more than one year, or both.

(b) Whoever in any claim for National Service Life Insurance, United States Government life insurance, or yearly renewable term insurance makes any sworn statement of a material fact knowing it to be false, shall be guilty of perjury and shall be fined not more than $5,000, or be imprisoned for not more than two years, or both.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1167, § 787; Pub. L. 99–576, title VII, § 701(47), Oct. 28, 1986, 100 Stat. 3294; renumbered § 1987, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 787 of this title as this section.

1986—Subsec. (a). Pub. L. 99–576 substituted ''any'' for ''himself or any other''.

§ 1988. Savings provision

Nothing in this title or any amendment or repeal made by the Act enacting this title shall affect any right, remedy, liability, authorization or requirement pertaining to Government insurance, the respective insurance funds, or the insurance appropriations, authorized or prescribed under the provisions of the War Risk Insurance Act, the World War Veterans' Act, 1924, the National Service Life Insurance Act of 1940, or any related Act, which was in effect on December 31, 1958.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1167, § 788; renumbered § 1988, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

The War Risk Insurance Act, referred to in text, is act Sept. 2, 1914, ch. 293, 38 Stat. 711, as amended. Sections 600 and 601 of the World War Veterans' Act, 1924 (act June 7, 1924, ch. 320, 43 Stat. 607, 629) repealed the War Risk Insurance Act subject to certain limitations provided in section 602 thereof.

The World War Veterans' Act, 1924, referred to in text, is act June 7, 1924, ch. 320, 43 Stat. 607, as amended, which was classified generally to chapter 10 (§§ 421 to 574) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by Pub. L. 85–857, § 14(51), Sept. 2, 1958, 72 Stat. 1271. For distribution of sections 421 to 574 of former Title 38 in this title, see Table preceding section 101 of this title.

The National Service Life Insurance Act of 1940, referred to in text, is act Oct. 8, 1940, ch. 757, title VI, part I, 54 Stat. 1008, as amended, which was classified generally to chapter 13 (§ 801 et seq.) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed and the provisions thereof reenacted as this subchapter by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

PRIOR PROVISIONS

A prior section 2000 was renumbered section 4100 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 788 of this title as this section.

CHAPTER 20—BENEFITS FOR HOMELESS VETERANS

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SUBCHAPTER I—PURPOSE; DEFINITIONS; ADMINISTRATIVE MATTERS

§ 2001. Purpose

The purpose of this chapter is to provide for the special needs of homeless veterans.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 905.)

PRIOR PROVISIONS

A prior section 2001 was renumbered section 4101 of this title.

Another prior section 2001, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1217, related to compensation for veterans under agreements with States, prior to repeal by section 1(a) of Pub. L. 87–675.

DEFINITIONS IN PUB. L. 107–95

Pub. L. 107–95, § 2, Dec. 21, 2001, 115 Stat. 903, provided that: ''For purposes of this Act [see Short Title of 2001 Amendments note set out under section 101 of this title]:

''(1) The term 'homeless veteran' has the meaning given such term in section 2002 of title 38, United States Code, as added by section 5(a)(1).

''(2) The term 'grant and per diem provider' means an entity in receipt of a grant under section 2011 or 2012 of title 38, United States Code, as so added.''

NATIONAL GOAL TO END HOMELESSNESS AMONG VETERANS

Pub. L. 107–95, § 3, Dec. 21, 2001, 115 Stat. 903, provided that:

''(a) NATIONAL GOAL.—Congress hereby declares it to be a national goal to end chronic homelessness among veterans within a decade of the enactment of this Act [Dec. 21, 2001].

''(b) COOPERATIVE EFFORTS ENCOURAGED.—Congress hereby encourages all departments and agencies of Federal, State, and local governments, quasi-governmental organizations, private and public sector entities, including community-based organizations, faith-based organizations, and individuals to work cooperatively to end chronic homelessness among veterans within a decade.''

SENSE OF THE CONGRESS REGARDING THE NEEDS OF HOMELESS VETERANS AND THE RESPONSIBILITY OF FEDERAL AGENCIES

Pub. L. 107–95, § 4, Dec. 21, 2001, 115 Stat. 904, provided that: ''It is the sense of the Congress that—

''(1) homelessness is a significant problem in the veterans community and veterans are disproportionately represented among homeless men;

''(2) while many effective programs assist homeless veterans to again become productive and self-sufficient members of society, current resources provided to such programs and other activities that assist homeless veterans are inadequate to provide all needed essential services, assistance, and support to homeless veterans;

''(3) the most effective programs for the assistance of homeless veterans should be identified and expanded;

''(4) federally funded programs for homeless veterans should be held accountable for achieving clearly defined results;

''(5) Federal efforts to assist homeless veterans should include prevention of homelessness; and

''(6) Federal agencies, particularly the Department of Veterans Affairs, the Department of Housing and Urban Development, and the Department of Labor, should cooperate more fully to address the problem of homelessness among veterans.''

EVALUATION CENTERS FOR HOMELESS VETERANS PROGRAMS

Pub. L. 107–95, § 6(a), Dec. 21, 2001, 115 Stat. 919, provided that: ''The Secretary of Veterans Affairs shall support the continuation within the Department of Veterans Affairs of at least one center for evaluation to monitor the structure, process, and outcome of programs of the Department of Veterans Affairs that address homeless veterans.''

§ 2002. Definitions

In this chapter:

(1) The term ''homeless veteran'' means a veteran who is homeless (as that term is defined in section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)).[1]

(2) The term ''grant and per diem provider'' means an entity in receipt of a grant under section 2011 or 2012 of this title.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 905.)

PRIOR PROVISIONS

A prior section 2002 was renumbered section 4102 of this title.

Another prior section 2002, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1217, related to compensation for veterans in absence of agreements with States, prior to repeal by section 1(a) of Pub. L. 87–675.

A prior section 2002A was renumbered section 4102A of this title.

§ 2003. Staffing requirements

(a) VBA STAFFING AT REGIONAL OFFICES.—The Secretary shall ensure that there is at least one full-time employee assigned to oversee and coordinate homeless veterans programs at each of the 20 Veterans Benefits Administration regional offices that the Secretary determines have the largest homeless veteran populations within the regions of the Administration. The programs covered by such oversight and coordination include the following:

(1) Housing programs administered by the Secretary under this title or any other provision of law.

(2) Compensation, pension, vocational rehabilitation, and education benefits programs administered by the Secretary under this title or any other provision of law.

(3) The housing program for veterans supported by the Department of Housing and Urban Development.

(4) The homeless veterans reintegration program of the Department of Labor under section 2021 of this title.

(5) The programs under section 2033 of this title.

(6) The assessments required by section 2034 of this title.

(7) Such other programs relating to homeless veterans as may be specified by the Secretary.

(b) VHA CASE MANAGERS.—The Secretary shall ensure that the number of case managers in the Veterans Health Administration is sufficient to assure that every veteran who is provided a housing voucher through section 8(*o*) of the United States Housing Act of 1937 (42 U.S.C. 1437f(*o*)) is assigned to, and is seen as needed by, a case manager.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 905.)

PRIOR PROVISIONS

A prior section 2003 was renumbered section 4103 of this title.

Another prior section 2003, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1218, related to payments to the States equal to payments made by them in accordance with an agreement under chapter 41 of this title, prior to repeal by section 1(a) of Pub. L. 87–675.

Prior sections 2003A and 2004 were renumbered sections 4103A and 4104 of this title, respectively.

Another prior section 2004, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1219, related to information necessary to determine a veteran's entitlement to compensation and which all Federal departments and agencies were required to make available to State agencies or to the Secretary, prior to repeal by section 1(a) of Pub. L. 87–675.

Prior sections 2004A and 2005 were renumbered sections 4104A and 4105 of this title, respectively.

Another prior section 2005, Pub. L. 85–837, Sept. 2, 1958, 72 Stat. 1219, related to penalties for making false statements or representations, or for knowledgeable failure to disclose material facts in order to obtain or increase payments under chapter 41 of this title, prior to repeal by section 1(a) of Pub. L. 87–675.

Prior section 2006 was renumbered section 4106 of this title.

Another prior section 2006, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1219, authorized the Secretary to make rules and regulations necessary to carry out the provisions of chapter 41 of this title, and required him to consult with representatives of the State unemployment compensation agencies before prescribing any rules which could affect the performance of such agencies, prior to repeal by Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

[1] So in original. There probably should be an additional closing parenthesis.

Prior section 2007 was renumbered section 4107 of this title.

Another prior section 2007, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1220; Pub. L. 86–70, § 29(b), June 25, 1959, 73 Stat. 148; Pub. L. 86–624, § 25(c), July 12, 1960, 74 Stat. 418, defined ''Korean conflict veterans'', ''unemployment compensation'', and ''State'', prior to repeal by Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

Prior section 2008 was renumbered section 4108 of this title.

Another prior section 2008, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1220, enumerated provisions which forbade duplication of benefits, prior to repeal by Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

Prior section 2009 was renumbered section 4109 of this title.

Another prior section 2009, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1221, provided termination dates for the payment of benefits under chapter 41 of this title, prior to repeal by Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558.

Prior section 2010 was renumbered section 4110 of this title.

Another prior section 2010 was renumbered section 4101 of this title.

Prior section 2010A was renumbered section 4110A of this title.

SUBCHAPTER II—COMPREHENSIVE SERVICE PROGRAMS

§ 2011. Grants

(a) AUTHORITY TO MAKE GRANTS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary shall make grants to assist eligible entities in establishing programs to furnish, and expanding or modifying existing programs for furnishing, the following to homeless veterans:

(A) Outreach.

(B) Rehabilitative services.

(C) Vocational counseling and training [1]

(D) Transitional housing assistance.

(2) The authority of the Secretary to make grants under this section expires on September 30, 2005.

(b) CRITERIA FOR GRANTS.—The Secretary shall establish criteria and requirements for grants under this section, including criteria for entities eligible to receive grants, and shall publish such criteria and requirements in the Federal Register. The criteria established under this subsection shall include the following:

(1) Specification as to the kinds of projects for which grants are available, which shall include—

(A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans; and

(B) procurement of vans for use in outreach to and transportation for homeless veterans for purposes of a program referred to in subsection (a).

(2) Specification as to the number of projects for which grants are available.

(3) Criteria for staffing for the provision of services under a project for which grants are made.

(4) Provisions to ensure that grants under this section—

(A) shall not result in duplication of ongoing services; and

(B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and other locations.

(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include—

(A) such State and local requirements that may apply; and

(B) fire and safety requirements applicable under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

(6) Specification as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of a project for which a grant is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the project concerned.

(d) ELIGIBLE ENTITIES.—The Secretary may make a grant under this section to an entity applying for such a grant only if the applicant for the grant—

(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

(2) demonstrates that adequate financial support will be available to carry out the project for which the grant is sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) agrees to meet the applicable criteria and requirements established under subsections (b) and (g) and has, as determined by the Secretary, the capacity to meet such criteria and requirements.

(e) APPLICATION REQUIREMENT.—An entity seeking a grant for a project under this section shall submit to the Secretary an application for the grant. The application shall set forth the following:

(1) The amount of the grant sought for the project.

(2) A description of the site for the project.

(3) Plans, specifications, and the schedule for implementation of the project in accordance with criteria and requirements prescribed by the Secretary under subsection (b).

(4) Reasonable assurance that upon completion of the work for which the grant is sought, the project will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided under the project will be provided to individuals who are not veterans.

(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant for a project to an applicant under this section unless the applicant in

[1] So in original. Probably should be followed by a period.

the application for the grant agrees to each of the following requirements:

(1) To provide the services for which the grant is made at locations accessible to homeless veterans.

(2) To maintain referral networks for homeless veterans for establishing eligibility for assistance and obtaining services, under available entitlement and assistance programs, and to aid such veterans in establishing eligibility for and obtaining such services.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services through the project.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 2012 of this title.

(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria and requirements established under subsection (b), in the case of an application for a grant under this section for a service center for homeless veterans, the Secretary shall require each of the following:

(1) That such center provide services to homeless veterans during such hours as the Secretary may specify and be open to such veterans on an as-needed, unscheduled basis.

(2) That space at such center be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center.

(3) That such center be equipped and staffed to provide or to assist in providing health care, mental health services, hygiene facilities, benefits and employment counseling, meals, transportation assistance, and such other services as the Secretary determines necessary.

(4) That such center be equipped and staffed to provide, or to assist in providing, job training, counseling, and placement services (including job readiness and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

(h) RECOVERY OF UNUSED GRANT FUNDS.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 906.)

PRIOR PROVISIONS

A prior section 2011 was renumbered section 4211 of this title.

Another prior section 2011 was renumbered section 4102 of this title.

§ 2012. Per diem payments

(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 2011 of this title (or an entity eligible to receive a grant under that section which after November 10, 1992, establishes a program that the Secretary determines carries out the purposes described in that section) per diem payments for services furnished to any homeless veteran—

(A) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(B) for whom the Secretary has authorized the provision of services.

(2)(A) The rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity adjusted by the Secretary under subparagraph (B). In no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

(B) The Secretary shall adjust the rate estimated by the grant recipient or eligible entity under subparagraph (A) to exclude other sources of income described in subparagraph (D) that the grant recipient or eligible entity certifies to be correct.

(C) Each grant recipient or eligible entity shall provide to the Secretary such information with respect to other sources of income as the Secretary may require to make the adjustment under subparagraph (B).

(D) The other sources of income referred to in subparagraphs (B) and (C) are payments to the grant recipient or eligible entity for furnishing services to homeless veterans under programs other than under this subchapter, including payments and grants from other departments and agencies of the United States, from departments or agencies of State or local government, and from private entities or organizations.

(3) In a case in which the Secretary has authorized the provision of services, per diem payments under paragraph (1) may be paid retroactively for services provided not more than three days before the authorization was provided.

(b) INSPECTIONS.—The Secretary may inspect any facility of a grant recipient or entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be provided to a grant recipient or eligible entity under this section unless the facilities of the grant recipient or eligible entity meet such standards as the Secretary shall prescribe.

(c) LIFE SAFETY CODE.—(1) Except as provided in paragraph (2), a per diem payment may not be provided under this section to a grant recipient or eligible entity unless the facilities of the grant recipient or eligible entity, as the case may be, meet applicable fire and safety requirements under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

(2) During the five-year period beginning on the date of the enactment of this section, paragraph (1) shall not apply to an entity that received a grant under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102–590; 38 U.S.C. 7721 note) before that date if the entity meets fire and safety requirements established by the Secretary.

(3) From amounts available for purposes of this section, not less than $5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 908.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 107–95, which was approved Dec. 21, 2001.

PRIOR PROVISIONS

A prior section 2012 was renumbered section 4212 of this title.

Another prior section 2012 was renumbered section 4103 of this title.

§ 2013. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter amounts as follows:

(1) $60,000,000 for fiscal year 2002.
(2) $75,000,000 for fiscal year 2003.
(3) $75,000,000 for fiscal year 2004.
(4) $99,000,000 for fiscal year 2005.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 909; amended Pub. L. 108–422, title I, § 101, Nov. 30, 2004, 118 Stat. 2380.)

PRIOR PROVISIONS

A prior section 2013 was renumbered section 4213 of this title.

Another prior section 2013 was renumbered section 4104 of this title.

A prior section 2014 was renumbered section 4214 of this title.

Another prior section 2014 was renumbered section 4105 of this title.

AMENDMENTS

2004—Par. (4). Pub. L. 108–422 substituted ''$99,000,000'' for ''$75,000,000''.

SUBCHAPTER III—TRAINING AND OUTREACH

§ 2021. Homeless veterans reintegration programs

(a) IN GENERAL.—Subject to the availability of appropriations provided for such purpose, the Secretary of Labor shall conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to provide job training, counseling, and placement services (including job readiness and literacy and skills training) to expedite the reintegration of homeless veterans into the labor force.

(b) REQUIREMENT TO MONITOR EXPENDITURES OF FUNDS.—(1) The Secretary of Labor shall collect such information as that Secretary considers appropriate to monitor and evaluate the distribution and expenditure of funds appropriated to carry out this section. The information shall include data with respect to the results or outcomes of the services provided to each homeless veteran under this section.

(2) Information under paragraph (1) shall be furnished in such form and manner as the Secretary of Labor may specify.

(c) ADMINISTRATION THROUGH THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—The Secretary of Labor shall carry out this section through the Assistant Secretary of Labor for Veterans' Employment and Training.

(d) BIENNIAL REPORT TO CONGRESS.—Not less than every two years, the Secretary of Labor shall submit to Congress a report on the programs conducted under this section. The Secretary of Labor shall include in the report an evaluation of services furnished to veterans under this section and an analysis of the information collected under subsection (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section amounts as follows:

(A) $50,000,000 for fiscal year 2002.
(B) $50,000,000 for fiscal year 2003.
(C) $50,000,000 for fiscal year 2004.
(D) $50,000,000 for fiscal year 2005.
(E) $50,000,000 for fiscal year 2006.

(2) Funds appropriated to carry out this section shall remain available until expended. Funds obligated in any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 909.)

PRIOR PROVISIONS

A prior section 2021 was renumbered section 4301 of this title and subsequently omitted in the general amendment of chapter 43 of this title by Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150.

§ 2022. Coordination of outreach services for veterans at risk of homelessness

(a) OUTREACH PLAN.—The Secretary, acting through the Under Secretary for Health, shall provide for appropriate officials of the Mental Health Service and the Readjustment Counseling Service of the Veterans Health Administration to develop a coordinated plan for joint outreach by the two Services to veterans at risk of homelessness, including particularly veterans who are being discharged or released from institutions after inpatient psychiatric care, substance abuse treatment, or imprisonment.

(b) MATTERS TO BE INCLUDED.—The outreach plan under subsection (a) shall include the following:

(1) Strategies to identify and collaborate with non-Department entities used by veterans who have not traditionally used Department services to further outreach efforts.

(2) Strategies to ensure that mentoring programs, recovery support groups, and other appropriate support networks are optimally available to veterans.

(3) Appropriate programs or referrals to family support programs.

(4) Means to increase access to case management services.

(5) Plans for making additional employment services accessible to veterans.

(6) Appropriate referral sources for mental health and substance abuse services.

(c) COOPERATIVE RELATIONSHIPS.—The outreach plan under subsection (a) shall identify strategies for the Department to enter into formal cooperative relationships with entities outside the Department to facilitate making services and resources optimally available to veterans.

(d) REVIEW OF PLAN.—The Secretary shall submit the outreach plan under subsection (a) to the Advisory Committee on Homeless Veterans for its review and consultation.

(e) OUTREACH PROGRAM.—(1) The Secretary shall carry out an outreach program to provide information to homeless veterans and veterans at risk of homelessness. The program shall include at a minimum—

(A) provision of information about benefits available to eligible veterans from the Department; and

(B) contact information for local Department facilities, including medical facilities, regional offices, and veterans centers.

(2) In developing and carrying out the program under paragraph (1), the Secretary shall, to the extent practicable, consult with appropriate public and private organizations, including the Bureau of Prisons, State social service agencies, the Department of Defense, and mental health, veterans, and homeless advocates—

(A) for assistance in identifying and contacting veterans who are homeless or at risk of homelessness;

(B) to coordinate appropriate outreach activities with those organizations; and

(C) to coordinate services provided to veterans with services provided by those organizations.

(f) REPORTS.—(1) Not later than October 1, 2002, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an initial report that contains an evaluation of outreach activities carried out by the Secretary with respect to homeless veterans, including outreach regarding clinical issues and other benefits administered under this title. The Secretary shall conduct the evaluation in consultation with the Under Secretary for Benefits, the Department of Veterans Affairs central office official responsible for the administration of the Readjustment Counseling Service, the Director of Homeless Veterans Programs, and the Department of Veterans Affairs central office official responsible for the administration of the Mental Health Strategic Health Care Group.

(2) Not later than December 31, 2005, the Secretary shall submit to the committees referred to in paragraph (1) an interim report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

(A) The Secretary's outreach plan under subsection (a), including goals and time lines for implementation of the plan for particular facilities and service networks.

(B) A description of the implementation and operation of the outreach program under subsection (e).

(C) A description of the implementation and operation of the demonstration program under section 2023 of this title.

(3) Not later than July 1, 2007, the Secretary shall submit to the committees referred to in paragraph (1) a final report on outreach activities carried out by the Secretary with respect to homeless veterans. The report shall include the following:

(A) An evaluation of the effectiveness of the outreach plan under subsection (a).

(B) An evaluation of the effectiveness of the outreach program under subsection (e).

(C) An evaluation of the effectiveness of the demonstration program under section 2023 of this title.

(D) Recommendations, if any, regarding an extension or modification of such outreach plan, such outreach program, and such demonstration program.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 910.)

PRIOR PROVISIONS

A prior section 2022 was renumbered section 4302 of this title and subsequently omitted in the general amendment of chapter 43 of this title by Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150.

§ 2023. Demonstration program of referral and counseling for veterans transitioning from certain institutions who are at risk for homelessness

(a) PROGRAM AUTHORITY.—The Secretary and the Secretary of Labor (hereinafter in this section referred to as the ''Secretaries'') shall carry out a demonstration program for the purpose of determining the costs and benefits of providing referral and counseling services to eligible veterans with respect to benefits and services available to such veterans under this title and under State law.

(b) LOCATION OF DEMONSTRATION PROGRAM.—The demonstration program shall be carried out in at least six locations. One location shall be a penal institution under the jurisdiction of the Bureau of Prisons.

(c) SCOPE OF PROGRAM.—(1) To the extent practicable, the demonstration program shall provide both referral and counseling services, and in the case of counseling services, shall include counseling with respect to job training and placement (including job readiness), housing, health care, and other benefits to assist the eligible veteran in the transition from institutional living.

(2)(A) To the extent that referral or counseling services are provided at a location under the

program, referral services shall be provided in person during such period of time that the Secretaries may specify that precedes the date of release or discharge of the eligible veteran, and counseling services shall be furnished after such date.

(B) The Secretaries may, as part of the program, furnish to officials of penal institutions outreach information with respect to referral and counseling services for presentation to veterans in the custody of such officials during the 18-month period that precedes such date of release or discharge.

(3) The Secretaries may enter into contracts to carry out the referral and counseling services required under the program with entities or organizations that meet such requirements as the Secretaries may establish.

(4) In developing the program, the Secretaries shall consult with officials of the Bureau of Prisons, officials of penal institutions of States and political subdivisions of States, and such other officials as the Secretaries determine appropriate.

(d) DURATION.—The authority of the Secretaries to provide referral and counseling services under the demonstration program shall cease on the date that is four years after the date of the commencement of the program.

(e) DEFINITION.—In this section, the term ''eligible veteran'' means a veteran who—

(1) is a resident of a penal institution or an institution that provides long-term care for mental illness; and

(2) is at risk for homelessness absent referral and counseling services provided under the demonstration program (as determined under guidelines established by the Secretaries).

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 912.)

PRIOR PROVISIONS

Prior sections 2023 to 2027 were renumbered sections 4303 to 4307 of this title, respectively, and subsequently omitted in the general amendment of chapter 43 of this title by Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150.

SUBCHAPTER IV—TREATMENT AND REHABILITATION FOR SERIOUSLY MENTALLY ILL AND HOMELESS VETERANS

AMENDMENTS

2001—Pub. L. 107–95, § 5(b)(1), Dec. 21, 2001, 115 Stat. 918, redesignated subchapter VII of chapter 17 of this title as this subchapter.

§ 2031. General treatment

(a) In providing care and services under section 1710 of this title to veterans suffering from serious mental illness, including veterans who are homeless, the Secretary may provide (directly or in conjunction with a governmental or other entity)—

(1) outreach services;

(2) care, treatment, and rehabilitative services (directly or by contract in community-based treatment facilities, including halfway houses); and

(3) therapeutic transitional housing assistance under section 2032 of this title, in conjunction with work therapy under subsection (a) or (b) of section 1718 of this title and outpatient care.

(b) The authority of the Secretary under subsection (a) expires on December 31, 2006.

(Added Pub. L. 105–114, title II, § 202(a), Nov. 21, 1997, 111 Stat. 2284, § 1771; renumbered § 2031 and amended Pub. L. 107–95, § 5(b), (f), Dec. 21, 2001, 115 Stat. 918.)

AMENDMENTS

2001—Pub. L. 107–95, § 5(b)(1), renumbered section 1771 of this title as this section.

Subsec. (a)(3). Pub. L. 107–95, § 5(b)(2), substituted ''section 2032 of this title'' for ''section 1772 of this title''.

Subsec. (b). Pub. L. 107–95, § 5(f), substituted ''December 31, 2006'' for ''December 31, 2001''.

§ 2032. Therapeutic housing

(a) The Secretary, in connection with the conduct of compensated work therapy programs, may operate residences and facilities as therapeutic housing.

(b) The Secretary may use such procurement procedures for the purchase, lease, or other acquisition of residential housing for purposes of this section as the Secretary considers appropriate to expedite the opening and operation of transitional housing and to protect the interests of the United States.

(c) A residence or other facility may be operated as transitional housing for veterans described in paragraphs (1) and (2) of section 1710(a) of this title under the following conditions:

(1) Only veterans described in those paragraphs and a house manager may reside in the residence or facility.

(2) Each resident, other than the house manager, shall be required to make payments that contribute to covering the expenses of board and the operational costs of the residence or facility for the period of residence in such housing.

(3) In order to foster the therapeutic and rehabilitative objectives of such housing (A) residents shall be prohibited from using alcohol or any controlled substance or item, (B) any resident violating that prohibition may be expelled from the residence or facility, and (C) each resident shall agree to undergo drug testing or such other measures as the Secretary shall prescribe to ensure compliance with that prohibition.

(4) In the establishment and operation of housing under this section, the Secretary shall consult with appropriate representatives of the community in which the housing is established and shall comply with zoning requirements, building permit requirements, and other similar requirements applicable to other real property used for similar purposes in the community.

(5) The residence or facility shall meet State and community fire and safety requirements applicable to other real property used for similar purposes in the community in which the transitional housing is located, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to such property.

(d) The Secretary shall prescribe the qualifications for house managers for transitional housing units operated under this section. The Secretary may provide for free room and subsistence for a house manager in addition to, or instead of payment of, a fee for the services provided by the manager.

(e)(1) The Secretary may operate as transitional housing under this section—

(A) any suitable residential property acquired by the Secretary as the result of a default on a loan made, guaranteed, or insured under chapter 37 of this title;

(B) any suitable space in a facility under the jurisdiction of the Secretary that is no longer being used (i) to provide acute hospital care, or (ii) as housing for medical center employees; and

(C) any other suitable residential property purchased, leased, or otherwise acquired by the Secretary.

(2) In the case of any property referred to in paragraph (1)(A), the Secretary shall—

(A) transfer administrative jurisdiction over such property within the Department from the Veterans Benefits Administration to the Veterans Health Administration; and

(B) transfer from the General Post Fund to the Loan Guaranty Revolving Fund under chapter 37 of this title an amount (not to exceed the amount the Secretary paid for the property) representing the amount the Secretary considers could be obtained by sale of such property to a nonprofit organization or a State for use as a shelter for homeless veterans.

(3) In the case of any residential property obtained by the Secretary from the Department of Housing and Urban Development under this section, the amount paid by the Secretary to that Department for that property may not exceed the amount that the Secretary of Housing and Urban Development would charge for the sale of that property to a nonprofit organization or a State for use as a shelter for homeless persons. Funds for such charge shall be derived from the General Post Fund.

(f) The Secretary shall prescribe—

(1) a procedure for establishing reasonable payment rates for persons residing in transitional housing; and

(2) appropriate limits on the period for which such persons may reside in transitional housing.

(g) The Secretary may dispose of any property acquired for the purpose of this section. The proceeds of any such disposal shall be credited to the General Post Fund.

(h) Funds received by the Department under this section shall be deposited in the General Post Fund. The Secretary may distribute out of the fund such amounts as necessary for the acquisition, management, maintenance, and disposition of real property for the purpose of carrying out such program. The Secretary shall manage the operation of this section so as to ensure that expenditures under this subsection for any fiscal year shall not exceed by more than $500,000 proceeds credited to the General Post Fund under this section. The operation of the program and funds received shall be separately accounted for, and shall be stated in the documents accompanying the President's budget for each fiscal year.

(Added Pub. L. 105–114, title II, § 202(a), Nov. 21, 1997, 111 Stat. 2284, § 1772; renumbered § 2032, Pub. L. 107–95, § 5(b)(1), Dec. 21, 2001, 115 Stat. 918.)

AMENDMENTS

2001—Pub. L. 107–95 renumbered section 1772 of this title as this section.

§ 2033. Additional services at certain locations

(a) Subject to the availability of appropriations, the Secretary shall operate a program under this section to expand and improve the provision of benefits and services by the Department to homeless veterans.

(b) The program shall include the establishment of sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law. The Secretary shall carry out the program under this section in sites in at least each of the 20 largest metropolitan statistical areas.

(c) The program shall include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at sites under the jurisdiction of the Secretary at which services are provided to homeless veterans.

(d) The program under this section shall terminate on December 31, 2006.

(Added Pub. L. 105–114, title II, § 202(a), Nov. 21, 1997, 111 Stat. 2286, § 1773; renumbered § 2033 and amended Pub. L. 107–95, §§ 5(b)(1), (f), 8(b), Dec. 21, 2001, 115 Stat. 918, 919.)

AMENDMENTS

2001—Pub. L. 107–95, § 5(b)(1), renumbered section 1773 of this title as this section.

Subsec. (b). Pub. L. 107–95, § 8(b), struck out "not fewer than eight programs (in addition to any existing programs providing similar services) at" after "establishment of" and inserted at end "The Secretary shall carry out the program under this section in sites in at least each of the 20 largest metropolitan statistical areas."

Subsec. (d). Pub. L. 107–95, § 5(f), substituted "December 31, 2006" for "December 31, 2001".

§ 2034. Coordination with other agencies and organizations

(a) In assisting homeless veterans, the Secretary shall coordinate with, and may provide services authorized under this title in conjunction with, State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations.

(b)(1) The Secretary shall require the director of each medical center or the director of each regional benefits office to make an annual assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

(2) Each such assessment shall be made in coordination with representatives of State and

local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

(A) Health care.

(B) Education and training.

(C) Employment.

(D) Shelter.

(E) Counseling.

(F) Outreach services.

(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(6) The Secretary shall review each annual assessment under this subsection and shall consolidate the findings and conclusions of each such assessment into the next annual report submitted to Congress under section 2065 of this title.

(c) In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility or office, to—

(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs;

(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans;

(3) take appropriate action to meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

(4) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (3) of the services available to such veterans within the area served by such center or office.

(Added Pub. L. 105–114, title II, § 202(a), Nov. 21, 1997, 111 Stat. 2286, § 1774; renumbered § 2034 and amended Pub. L. 107–95, §§ 5(b)(1), 6(b), Dec. 21, 2001, 115 Stat. 918, 919.)

AMENDMENTS

2001—Pub. L. 107–95, § 5(b)(1), renumbered section 1774 of this title as this section.

Subsec. (b)(1). Pub. L. 107–95, § 6(b)(1), inserted ''annual'' after ''to make an''.

Subsec. (b)(6). Pub. L. 107–95, § 6(b)(2), added par. (6).

SUBCHAPTER V—HOUSING ASSISTANCE

§ 2041. Housing assistance for homeless veterans

(a)(1) To assist homeless veterans and their families in acquiring shelter, the Secretary may enter into agreements described in paragraph (2) with—

(A) nonprofit organizations, with preference being given to any organization named in, or approved by the Secretary under, section 5902 of this title; or

(B) any State or any political subdivision thereof.

(2) To carry out paragraph (1), the Secretary may enter into agreements to sell, lease, lease with an option to purchase, or donate real property, and improvements thereon, acquired by the Secretary as the result of a default on a loan made, insured, or guaranteed under this chapter. Such sale or lease or donation shall be for such consideration as the Secretary determines is in the best interests of homeless veterans and the Federal Government.

(3) The Secretary may enter into an agreement under paragraph (1) of this subsection only if—

(A) the Secretary determines that such an action will not adversely affect the ability of the Department—

(i) to fulfill its statutory missions with respect to the Department loan guaranty program and the short- and long-term solvency of the Veterans Housing Benefit Program Fund under this chapter;[1] or

(ii) to carry out other functions and administer other programs authorized by law;

(B) the entity to which the property is sold, leased, or donated agrees to—

(i) utilize the property solely as a shelter primarily for homeless veterans and their families,

(ii) comply with all zoning laws relating to the property,

(iii) make no use of the property that is not compatible with the area where the property is located, and

(iv) take such other actions as the Secretary determines are necessary or appropriate in the best interests of homeless veterans and the Federal Government; and

(C) the Secretary determines that there is no significant likelihood of the property being sold for a price sufficient to reduce the liability of the Department or the veteran who defaulted on the loan.

(4) The term of any lease under this subsection may not exceed three years.

(5) An approved entity that leases a property from the Secretary under this section shall be responsible for the payment of any taxes, utilities, liability insurance, and other maintenance charges or similar charges that apply to the property.

(6) Any agreement, deed, or other instrument executed by the Secretary under this subsection shall be on such terms and conditions as the Secretary determines to be appropriate and nec-

[1] See References in Text note below.

essary to carry out the purpose of such agreement.

(b)(1) Subject to paragraphs (2) and (3), the Secretary may make loans to organizations described in paragraph (1)(A) of subsection (a) to finance the purchase of property by such organizations under such subsection.

(2) In making a loan under this subsection, the Secretary—

(A) shall establish credit standards to be used for this purpose;

(B) may, pursuant to section 3733(a)(6) of this title, provide that the loan will bear interest at a rate below the rate that prevails for similar loans in the market in which the loan is made; and

(C) may waive the collection of a fee under section 3729 of this title in any case in which the Secretary determines that such a waiver would be appropriate.

(c) The Secretary may not enter into agreements under subsection (a) after December 31, 2008.

(Added Pub. L. 102–54, § 9(a), June 13, 1991, 105 Stat. 272, § 1835; renumbered § 3735, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 102–590, §§ 8, 9, Nov. 10, 1992, 106 Stat. 5140; Pub. L. 103–446, title XII, § 1201(d)(13), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104–110, title I, § 101(h), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105–114, title II, § 203(a), Nov. 21, 1997, 111 Stat. 2288; Pub. L. 105–368, title VI, § 602(e)(1)(G), Nov. 11, 1998, 112 Stat. 3347; Pub. L. 106–117, title IX, § 902, Nov. 30, 1999, 113 Stat. 1587; renumbered § 2041, Pub. L. 107–95, § 5(c), Dec. 21, 2001, 115 Stat. 918; Pub. L. 108–170, title IV, § 404, Dec. 6, 2003, 117 Stat. 2063.)

REFERENCES IN TEXT

The Veterans Housing Benefit Program Fund under this chapter, referred to in subsec. (a)(3)(A)(i), probably means the Veterans Housing Benefit Program Fund under chapter 37 of this title. This section formerly appeared as section 3735 of this title. The Veterans Housing Benefit Program Fund was established by section 3722 of this title.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–170 substituted ''December 31, 2008'' for ''December 31, 2003''.

2001—Pub. L. 107–95 renumbered section 3735 of this title as this section.

1999—Subsec. (c). Pub. L. 106–117 substituted ''December 31, 2003'' for ''December 31, 1999''.

1998—Subsec. (a)(3)(A)(i). Pub. L. 105–368 substituted ''Veterans Housing Benefit Program Fund'' for ''Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund''.

1997—Subsec. (c). Pub. L. 105–114 substituted ''December 31, 1999'' for ''December 31, 1997''.

1996—Subsec. (c). Pub. L. 104–110 substituted ''December 31, 1997'' for ''December 31, 1995''.

1994—Subsec. (a)(1)(A). Pub. L. 103–446 substituted ''section 5902'' for ''section 3402''.

1992—Subsec. (a)(2). Pub. L. 102–590, § 8(a)(1), inserted '', lease, lease with an option to purchase, or donate'' after ''sell'' and ''or lease or donation'' after ''sale''.

Subsec. (a)(3)(B). Pub. L. 102–590, § 8(a)(2), inserted '', leased, or donated'' after ''sold'' in introductory provisions.

Subsec. (a)(4) to (6). Pub. L. 102–590, § 8(a)(3), (4), added pars. (4) and (5) and redesignated former par. (4) as (6).

Subsec. (b). Pub. L. 102–590, § 9(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Pub. L. 102–590, § 8(b), substituted ''December 31, 1995'' for ''September 30, 1993''.

Subsec. (c). Pub. L. 102–590, § 9(a)(1), redesignated subsec. (b) as (c).

1991—Pub. L. 102–83 renumbered section 1835 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

§ 2042. Supported housing for veterans participating in compensated work therapies

The Secretary may authorize homeless veterans in the compensated work therapy program to be provided housing through the therapeutic residence program under section 2032 of this title or through grant and per diem providers under subchapter II of this chapter.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 913.)

§ 2043. Domiciliary care programs

(a) AUTHORITY.—The Secretary may establish up to 10 programs under section 1710(b) of this title (in addition to any program that is established as of the date of the enactment of this section) to provide domiciliary services under such section to homeless veterans.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $5,000,000 for each of fiscal years 2003 and 2004 to establish the programs referred to in subsection (a).

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 913.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a), is the date of enactment of Pub. L. 107–95, which was approved Dec. 21, 2001.

SUBCHAPTER VI—LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING

AMENDMENTS

2001—Pub. L. 107–95, § 5(d)(1), (2)(A), Dec. 21, 2001, 115 Stat. 918, redesignated subchapter VI of chapter 37 of this title as this subchapter and struck out ''FOR HOMELESS VETERANS'' after ''HOUSING'' in subchapter heading.

§ 2051. General authority

(a) The Secretary may guarantee the full or partial repayment of a loan that meets the requirements of this subchapter.

(b)(1) Not more than 15 loans may be guaranteed under subsection (a), of which not more than five such loans may be guaranteed during the 3-year period beginning on the date of the enactment of this subchapter.

(2) A guarantee of a loan under subsection (a) shall be in an amount that is not less than the amount necessary to sell the loan in a commercial market.

(3) Not more than an aggregate amount of $100,000,000 in loans may be guaranteed under subsection (a).

(c) A loan may not be guaranteed under this subchapter unless, before closing such loan, the Secretary has approved the loan.

(d)(1) The Secretary shall enter into contracts with a qualified nonprofit organization, or other qualified organization, that has experience in underwriting transitional housing projects to obtain advice in carrying out this subchapter, including advice on the terms and conditions necessary for a loan that meets the requirements of section 2052 of this title.

(2) For purposes of paragraph (1), a nonprofit organization is an organization that is described in paragraph (3) or (4) of subsection (c) of section 501 of the Internal Revenue Code of 1986 and is exempt from tax under subsection (a) of such section.

(e) The Secretary may carry out this subchapter in advance of the issuance of regulations for such purpose.

(f) The Secretary may guarantee loans under this subchapter notwithstanding any requirement for prior appropriations for such purpose under any provision of law.

(g) Notwithstanding any other provision of law, a multifamily transitional housing project that is funded by a loan guaranteed under this subchapter may accept uncompensated voluntary services performed by any eligible entity (as that term is defined in section 2011(d) of this title) in connection with the construction, alteration, or repair of such project.

(Added Pub. L. 105–368, title VI, § 601(a), Nov. 11, 1998, 112 Stat. 3342, § 3772; renumbered § 2051 and amended Pub. L. 107–95, § 5(d)(1), (2)(B), Dec. 21, 2001, 115 Stat. 918; Pub. L. 108–454, title IV, § 402(a), Dec. 10, 2004, 118 Stat. 3615.)

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 105–368, which was approved Nov. 11, 1998.

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (d)(2), is classified to section 501 of Title 26, Internal Revenue Code.

AMENDMENTS

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

2001—Pub. L. 107–95, § 5(d)(1), renumbered section 3772 of this title as this section.

Subsec. (d)(1). Pub. L. 107–95, § 5(d)(2)(B), substituted ''section 2052 of this title'' for ''section 3773 of this title''.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

§ 2052. Requirements

(a) A loan referred to in section 2051 of this title meets the requirements of this subchapter if each of the following requirements is met:

(1) The loan—

(A) is for—

(i) construction of, rehabilitation of, or acquisition of land for a multifamily transitional housing project described in subsection (b), or more than one of such purposes; or

(ii) refinancing of an existing loan for such a project; and

(B) may also include additional reasonable amounts for—

(i) financing acquisition of furniture, equipment, supplies, or materials for the project; or

(ii) in the case of a loan made for purposes of subparagraph (A)(i), supplying the organization carrying out the project with working capital relative to the project.

(2) The loan is made in connection with funding or the provision of substantial property or services for such project by either a State or local government or a nongovernmental entity, or both.

(3) The maximum loan amount does not exceed the lesser of—

(A) that amount generally approved (utilizing prudent underwriting principles) in the consideration and approval of projects of similar nature and risk so as to assure repayment of the loan obligation; and

(B) 90 percent of the total cost of the project.

(4) The loan is of sound value, taking into account the creditworthiness of the entity (and the individual members of the entity) applying for such loan.

(5) The loan is secured.

(6) The loan is subject to such terms and conditions as the Secretary determines are reasonable, taking into account other housing projects with similarities in size, location, population, and services provided.

(b) For purposes of this subchapter, a multifamily transitional housing project referred to in subsection (a)(1) is a project that—

(1) provides transitional housing to homeless veterans, which housing may be single room occupancy (as defined in section 8(n) of the United States Housing Act of 1937 (42 U.S.C. 1437f (n)));

(2) provides supportive services and counselling services (including job counselling) at the project site with the goal of making such veterans self-sufficient;

(3) requires that each such veteran seek to obtain and maintain employment;

(4) charges a reasonable fee for occupying a unit in such housing; and

(5) maintains strict guidelines regarding sobriety as a condition of occupying such unit.

(c) Such a project—

(1) may include space for neighborhood retail services, other commercial activities, or job training programs; and

(2) may provide transitional housing to veterans who are not homeless and to homeless individuals who are not veterans if—

(A) at the time of taking occupancy by any such veteran or homeless individual, the transitional housing needs of homeless veterans in the project area have been met;

(B) the housing needs of any such veteran or homeless individual can be met in a manner that is compatible with the manner in which the needs of homeless veterans are met under paragraph (1); and

(C) the provisions of paragraphs (4) and (5) of subsection (b) are met.

(d) In determining whether to guarantee a loan under this subchapter, the Secretary shall consider—

(1) the availability of Department of Veterans Affairs medical services to residents of the multifamily transitional housing project; and

(2) the extent to which needs of homeless veterans are met in a community, as assessed under section 107 of Public Law 102–405.

(Added Pub. L. 105–368, title VI, § 601(a), Nov. 11, 1998, 112 Stat. 3343, § 3773; renumbered § 2052 and amended Pub. L. 107–95, § 5(d)(1), (2)(C), Dec. 21, 2001, 115 Stat. 918; Pub. L. 108–454, title IV, § 402(b), Dec. 10, 2004, 118 Stat. 3616.)

REFERENCES IN TEXT

Section 107 of Public Law 102–405, referred to in subsec. (d)(2), is set out as a note under section 527 of this title.

AMENDMENTS

2004—Subsec. (c)(1). Pub. L. 108–454 substituted ''services, other commercial activities,'' for ''services''.

2001—Pub. L. 107–95, § 5(d)(1), renumbered section 3773 of this title as this section.

Subsec. (a). Pub. L. 107–95, § 5(d)(2)(C), substituted ''section 2051 of this title'' for ''section 3772 of this title'' in introductory provisions.

§ 2053. Default

(a) The Secretary shall take such steps as may be necessary to obtain repayment on any loan that is in default and that is guaranteed under this subchapter.

(b) Upon default of a loan guaranteed under this subchapter and terminated pursuant to State law, a lender may file a claim under the guarantee for an amount not to exceed the lesser of—

(1) the maximum guarantee; or

(2) the difference between—

(A) the total outstanding obligation on the loan, including principal, interest, and expenses authorized by the loan documents, through the date of the public sale (as authorized under such documents and State law); and

(B) the amount realized at such sale.

(Added Pub. L. 105–368, title VI, § 601(a), Nov. 11, 1998, 112 Stat. 3344, § 3774; renumbered § 2053, Pub. L. 107–95, § 5(d)(1), Dec. 21, 2001, 115 Stat. 918.)

AMENDMENTS

2001—Pub. L. 107–95 renumbered section 3774 of this title as this section.

§ 2054. Audit

(a) During each of the first 3 years of operation of a multifamily transitional housing project with respect to which a loan is guaranteed under this subchapter, there shall be an annual, independent audit of such operation. Such audit shall include a detailed statement of the operations, activities, and accomplishments of such project during the year covered by such audit. The party responsible for obtaining such audit (and paying the costs therefor) shall be determined before the Secretary issues a guarantee under this subchapter.

(b) After the first three years of operation of such a multifamily transitional housing project, the Secretary may provide for periodic audits of the project.

(Added Pub. L. 105–368, title VI, § 601(a), Nov. 11, 1998, 112 Stat. 3345, § 3775; amended Pub. L. 106–117, title VII, § 712, Nov. 30, 1999, 113 Stat. 1584; renumbered § 2054, Pub. L. 107–95, § 5(d)(1), Dec. 21, 2001, 115 Stat. 918.)

AMENDMENTS

2001—Pub. L. 107–95 renumbered section 3775 of this title as this section.

1999—Pub. L. 106–117 designated existing provisions as subsec. (a) and added subsec. (b).

SUBCHAPTER VII—OTHER PROVISIONS

§ 2061. Grant program for homeless veterans with special needs

(a) ESTABLISHMENT.—The Secretary shall carry out a program to make grants to health care facilities of the Department and to grant and per diem providers in order to encourage development by those facilities and providers of programs for homeless veterans with special needs.

(b) HOMELESS VETERANS WITH SPECIAL NEEDS.—For purposes of this section, homeless veterans with special needs include homeless veterans who are—

(1) women, including women who have care of minor dependents;

(2) frail elderly;

(3) terminally ill; or

(4) chronically mentally ill.

(c) FUNDING.—(1) From amounts appropriated to the Department for ''Medical Care'' for each of fiscal years 2003, 2004, and 2005, $5,000,000 shall be available for each such fiscal year for the purposes of the program under this section.

(2) The Secretary shall ensure that funds for grants under this section are designated for the first three years of operation of the program under this section as a special purpose program for which funds are not allocated through the Veterans Equitable Resource Allocation system.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 913.)

STUDY OF OUTCOME EFFECTIVENESS OF GRANT PROGRAM FOR HOMELESS VETERANS WITH SPECIAL NEEDS

Pub. L. 107–95, § 7, Dec. 21, 2001, 115 Stat. 919, provided that:

''(a) STUDY.—The Secretary of Veterans Affairs shall conduct a study of the effectiveness during fiscal year 2002 through fiscal year 2004 of the grant program under section 2061 of title 38, United States Code, as added by section 5(a), in meeting the needs of homeless veterans with special needs (as specified in that section). As part of the study, the Secretary shall compare the results of programs carried out under that section, in terms of veterans' satisfaction, health status, reduction in addiction severity, housing, and encouragement of productive activity, with results for similar veterans in programs of the Department or of grant and per diem

providers that are designed to meet the general needs of homeless veterans.

''(b) REPORT.—Not later than March 31, 2005, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the results of the study under subsection (a).''

[For definitions of ''homeless veteran'' and ''grant and per diem provider'' used in section 7(a) of Pub. L. 107–95, set out above, see section 2 of Pub. L. 107–95, set out as a note under section 2001 of this title.]

§ 2062. Dental care

(a) IN GENERAL.—For purposes of section 1712(a)(1)(H) of this title, outpatient dental services and treatment of a dental condition or disability of a veteran described in subsection (b) shall be considered to be medically necessary, subject to subsection (c), if—

(1) the dental services and treatment are necessary for the veteran to successfully gain or regain employment;

(2) the dental services and treatment are necessary to alleviate pain; or

(3) the dental services and treatment are necessary for treatment of moderate, severe, or severe and complicated gingival and periodontal pathology.

(b) ELIGIBLE VETERANS.—Subsection (a) applies to a veteran—

(1) who is enrolled for care under section 1705(a) of this title; and

(2) who, for a period of 60 consecutive days, is receiving care (directly or by contract) in any of the following settings:

(A) A domiciliary under section 1710 of this title.

(B) A therapeutic residence under section 2032 of this title.

(C) Community residential care coordinated by the Secretary under section 1730 of this title.

(D) A setting for which the Secretary provides funds for a grant and per diem provider.

(3) For purposes of paragraph (2), in determining whether a veteran has received treatment for a period of 60 consecutive days, the Secretary may disregard breaks in the continuity of treatment for which the veteran is not responsible.

(c) LIMITATION.—Dental benefits provided by reason of this section shall be a one-time course of dental care provided in the same manner as the dental benefits provided to a newly discharged veteran.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 913.)

§ 2063. Employment assistance

The Secretary may authorize homeless veterans receiving care through vocational rehabilitation programs to participate in the compensated work therapy program under section 1718 of this title.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 914.)

§ 2064. Technical assistance grants for nonprofit community-based groups

(a) GRANT PROGRAM.—The Secretary shall carry out a program to make grants to entities or organizations with expertise in preparing grant applications. Under the program, the entities or organizations receiving grants shall provide technical assistance to nonprofit community-based groups with experience in providing assistance to homeless veterans in order to assist such groups in applying for grants under this chapter and other grants relating to addressing problems of homeless veterans.

(b) FUNDING.—There is authorized to be appropriated $750,000 for each of fiscal years 2002 through 2005 to carry out the program under this section.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 914.)

§ 2065. Annual report on assistance to homeless veterans

(a) ANNUAL REPORT.—Not later than June 15 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department during the calendar year preceding the report under programs of the Department under this chapter and other programs of the Department for the provision of assistance to homeless veterans.

(b) GENERAL CONTENTS OF REPORT.—Each report under subsection (a) shall include the following:

(1) The number of homeless veterans provided assistance under the programs referred to in subsection (a).

(2) The cost to the Department of providing such assistance under those programs.

(3) The Secretary's evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans, including—

(A) residential work-therapy programs;

(B) programs combining outreach, community-based residential treatment, and case-management; and

(C) contract care programs for alcohol and drug-dependence or use disabilities).[1]

(4) The Secretary's evaluation of the effectiveness of programs established by recipients of grants under section 2011 of this title and a description of the experience of those recipients in applying for and receiving grants from the Secretary of Housing and Urban Development to serve primarily homeless persons who are veterans.

(5) Any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(c) HEALTH CARE CONTENTS OF REPORT.—Each report under subsection (a) shall include, with respect to programs of the Department addressing health care needs of homeless veterans, the following:

(1) Information about expenditures, costs, and workload under the program of the De-

[1] So in original. There is no opening parenthesis.

partment known as the Health Care for Homeless Veterans program (HCHV).

(2) Information about the veterans contacted through that program.

(3) Information about program treatment outcomes under that program.

(4) Information about supported housing programs.

(5) Information about the Department's grant and per diem provider program under subchapter II of this chapter.

(6) The findings and conclusions of the assessments of the medical needs of homeless veterans conducted under section 2034(b) of this title.

(7) Other information the Secretary considers relevant in assessing those programs.

(d) BENEFITS CONTENT OF REPORT.—Each report under subsection (a) shall include, with respect to programs and activities of the Veterans Benefits Administration in processing of claims for benefits of homeless veterans during the preceding year, the following:

(1) Information on costs, expenditures, and workload of Veterans Benefits Administration claims evaluators in processing claims for benefits of homeless veterans.

(2) Information on the filing of claims for benefits by homeless veterans.

(3) Information on efforts undertaken to expedite the processing of claims for benefits of homeless veterans.

(4) Other information that the Secretary considers relevant in assessing the programs and activities.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 914; amended Pub. L. 108–170, title IV, § 405(b), Dec. 6, 2003, 117 Stat. 2063.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–170 substituted ''June 15 of each year'' for ''April 15 of each year''.

§ 2066. Advisory Committee on Homeless Veterans

(a) ESTABLISHMENT.—(1) There is established in the Department the Advisory Committee on Homeless Veterans (hereinafter in this section referred to as the ''Committee'').

(2) The Committee shall consist of not more than 15 members appointed by the Secretary from among the following:

(A) Veterans service organizations.

(B) Advocates of homeless veterans and other homeless individuals.

(C) Community-based providers of services to homeless individuals.

(D) Previously homeless veterans.

(E) State veterans affairs officials.

(F) Experts in the treatment of individuals with mental illness.

(G) Experts in the treatment of substance use disorders.

(H) Experts in the development of permanent housing alternatives for lower income populations.

(I) Experts in vocational rehabilitation.

(J) Such other organizations or groups as the Secretary considers appropriate.

(3) The Committee shall include, as ex officio members, the following:

(A) The Secretary of Labor (or a representative of the Secretary selected after consultation with the Assistant Secretary of Labor for Veterans' Employment).

(B) The Secretary of Defense (or a representative of the Secretary).

(C) The Secretary of Health and Human Services (or a representative of the Secretary).

(D) The Secretary of Housing and Urban Development (or a representative of the Secretary).

(4)(A) The Secretary shall determine the terms of service and allowances of the members of the Committee, except that a term of service may not exceed three years. The Secretary may reappoint any member for additional terms of service.

(B) Members of the Committee shall serve without pay. Members may receive travel expenses, including per diem in lieu of subsistence for travel in connection with their duties as members of the Committee.

(b) DUTIES.—(1) The Secretary shall consult with and seek the advice of the Committee on a regular basis with respect to the provision by the Department of benefits and services to homeless veterans.

(2) In providing advice to the Secretary under this subsection, the Committee shall—

(A) assemble and review information relating to the needs of homeless veterans;

(B) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans; and

(C) provide on-going advice on the most appropriate means of providing assistance to homeless veterans.

(3) The Committee shall—

(A) review the continuum of services provided by the Department directly or by contract in order to define cross-cutting issues and to improve coordination of all services with the Department that are involved in addressing the special needs of homeless veterans;

(B) identify (through the annual assessments under section 2034 of this title and other available resources) gaps in programs of the Department in serving homeless veterans, including identification of geographic areas with unmet needs, and provide recommendations to address those gaps;

(C) identify gaps in existing information systems on homeless veterans, both within and outside the Department, and provide recommendations about redressing problems in data collection;

(D) identify barriers under existing laws and policies to effective coordination by the Department with other Federal agencies and with State and local agencies addressing homeless populations;

(E) identify opportunities for increased liaison by the Department with nongovernmental organizations and individual groups providing services to homeless populations;

(F) with appropriate officials of the Department designated by the Secretary, participate with the Interagency Council on the Homeless

under title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.);

(G) recommend appropriate funding levels for specialized programs for homeless veterans provided or funded by the Department;

(H) recommend appropriate placement options for veterans who, because of advanced age, frailty, or severe mental illness, may not be appropriate candidates for vocational rehabilitation or independent living; and

(I) perform such other functions as the Secretary may direct.

(c) REPORTS.—(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to homeless veterans. Each such report shall include—

(A) an assessment of the needs of homeless veterans;

(B) a review of the programs and activities of the Department designed to meet such needs;

(C) a review of the activities of the Committee; and

(D) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

(2) Not later than 90 days after the receipt of a report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.

(d) TERMINATION.—The Committee shall cease to exist December 31, 2006.

(Added Pub. L. 107–95, § 5(a)(1), Dec. 21, 2001, 115 Stat. 916.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (b)(3)(F), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Title II of the Act is classified generally to subchapter II (§ 11311 et seq.) of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

CHANGE OF NAME

Interagency Council on the Homeless changed to United States Interagency Council on Homelessness by Pub. L. 108–199, div. G, title II, § 216, Jan. 23, 2004, 118 Stat. 394.

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

Sec.
2101. Veterans eligible for assistance.
2102. Limitations on assistance furnished.
2103. Furnishing of plans and specifications.
2104. Benefits additional to benefits under other laws.
2105. Nonliability of United States.
2106. Veterans' mortgage life insurance.

AMENDMENTS

1992—Pub. L. 102–568, title II, § 204(b), Oct. 29, 1992, 106 Stat. 4325, substituted ''Veterans'' for ''Veteran's'' in item 2106.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 801 to 806 as 2101 to 2106, respectively.

1988—Pub. L. 100–322, title III, § 333(a)(2), May 20, 1988, 102 Stat. 539, substituted ''Veteran's mortgage life insurance'' for ''Mortgage Protection Life Insurance'' in item 806.

1971—Pub. L. 92–95, § 2, Aug. 11, 1971, 85 Stat. 322, added item 806.

§ 2101. Veterans eligible for assistance

(a) ACQUISITION OF HOUSING WITH SPECIAL FEATURES.—(1) Subject to paragraph (3), the Secretary may assist a disabled veteran described in paragraph (2) in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor.

(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets any of the following criteria:

(A) The disability is due to the loss, or loss of use, of both lower extremities such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(B) The disability is due to—

(i) blindness in both eyes, having only light perception, plus

(ii) loss or loss of use of one lower extremity.

(C) The disability is due to the loss or loss of use of one lower extremity together with—

(i) residuals of organic disease or injury; or

(ii) the loss or loss of use of one upper extremity,

which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(D) The disability is due to the loss, or loss of use, of both upper extremities such as to preclude use of the arms at or above the elbows.

(3) The regulations prescribed under subsection (c) shall require that assistance under paragraph (1) may be provided to a veteran only if the Secretary finds that—

(A) it is medically feasible for the veteran to reside in the proposed housing unit and in the proposed locality;

(B) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and

(C) the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

(b) ADAPTATIONS TO RESIDENCE OF VETERAN.—(1) Subject to paragraph (3), the Secretary shall

assist any disabled veteran described in paragraph (2) (other than a veteran who is eligible for assistance under subsection (a))—

(A) in acquiring such adaptations to such veteran's residence as are determined by the Secretary to be reasonably necessary because of such disability; or

(B) in acquiring a residence already adapted with special features determined by the Secretary to be reasonably necessary for the veteran because of such disability.

(2) A veteran is described in this paragraph if the veteran is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability that meets either of the following criteria:

(A) The disability is due to blindness in both eyes with 5/200 visual acuity or less.

(B) The disability includes the anatomical loss or loss of use of both hands.

(3) Assistance under paragraph (1) may be provided only to a veteran who the Secretary determines—

(A) is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family; or

(B) if the veteran's residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family.

(c) REGULATIONS.—Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1168, § 801; Pub. L. 86–239, Sept. 8, 1959, 73 Stat. 472; Pub. L. 88–401, Aug. 4, 1964, 78 Stat. 380; Pub. L. 91–22, § 1, June 6, 1969, 83 Stat. 32; Pub. L. 95–117, title IV, § 401, Oct. 3, 1977, 91 Stat. 1065; Pub. L. 96–385, title III, § 301(a), Oct. 7, 1980, 94 Stat. 1531; Pub. L. 99–576, title IV, § 401(a), title VII, §§ 701(48), 702(7), Oct. 28, 1986, 100 Stat. 3280, 3295, 3302; renumbered § 2101 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–183, title IV, § 401, Dec. 16, 2003, 117 Stat. 2664; Pub. L. 108–454, title IV, § 401, Dec. 10, 2004, 118 Stat. 3614.)

PRIOR PROVISIONS

Prior section 2101, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1222, related to eligibility for mustering-out payments, prior to repeal by Pub. L. 89–50, § 1(a), June 24, 1965, 79 Stat. 173, effective July 1, 1966.

AMENDMENTS

2004—Pub. L. 108–454 amended text of section generally. Prior to amendment, section consisted of subsecs. (a) and (b) authorizing the Secretary to assist veterans entitled to compensation under chapter 11 of this title for permanent and total service-connected disability due to loss or loss of use of lower extremities, blindness, or loss or loss of use of both hands and subsec. (c) authorizing similar assistance to members of the Armed Forces serving on active duty.

2003—Subsec. (c). Pub. L. 108–183 added subsec. (c).

1991—Pub. L. 102–83 renumbered section 801 of this title as this section and substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (a). Pub. L. 99–576, §§ 701(48), 702(7), substituted ''the Administrator'' for ''he'' and ''veteran who'' for ''veteran, who'', and struck out '', based on service after April 20, 1898,'' after ''chapter 11 of this title''.

Subsec. (b)(1). Pub. L. 99–576, § 401(a), inserted at end ''or in acquiring a residence already adapted with special features determined by the Administrator to be reasonably necessary for the veteran because of such disability''.

1980—Pub. L. 96–385 designated existing provisions as subsec. (a) and added subsec. (b).

1978—Pub. L. 95–117 in cl. (3) inserted reference to loss or loss of use of one upper extremity and reference to braces, crutches, and canes.

1969—Pub. L. 91–22 added cl. (3) which authorized the Administrator to provide housing assistance to veterans whose permanent and total disability consists of loss or loss of use of one lower extremity when such loss precludes locomotion without a wheelchair.

1964—Pub. L. 88–401 struck out provisions from cl. (2)(B) which required such permanent and total disability to be such as to preclude locomotion without the aid of a wheelchair.

1959—Pub. L. 86–239 designated existing provisions of first sentence as cl. (1), struck out ''by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis'' after ''loss of use'', and added cl. (2).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

§ 2102. Limitations on assistance furnished

(a) The assistance authorized by section 2101(a) of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed $50,000 in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by such veteran, the Secretary shall pay not to exceed 50 percent of the total cost to the veteran of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by such veteran prior to application for assistance under this chapter, the Secretary shall pay not to exceed the smaller of the following sums: (A) 50 percent of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 percent of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling which is not adapted to the requirements of such veteran's disability, acquired by such veteran prior to application for assistance under this chapter, the Secretary shall pay not to exceed (A) the cost to the veteran of such remodeling; or (B) 50 percent of the cost to the veteran of such remodeling; plus the smaller of the following sums: (i) 50 percent of the cost to the veteran of such dwelling and the necessary land upon which it is

situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a suitable housing unit, the Secretary shall pay not to exceed the smaller of the following sums: (A) 50 percent of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

(b) Except as provided in section 2104(b) of this title, the assistance authorized by section 2101(b) of this title shall be limited to the lesser of—

(1) the actual cost, or, in the case of a veteran acquiring a residence already adapted with special features, the fair market value, of the adaptations determined by the Secretary under such section 2101(b) to be reasonably necessary, or

(2) $10,000.

(c) The amount of assistance afforded under subsection (a) for a veteran authorized assistance by section 2101(a) of this title shall not be reduced by reason that title to the housing unit, which is vested in the veteran, is also vested in any other person, if the veteran resides in the housing unit.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1168, § 802; Pub. L. 91–22, § 2, June 6, 1969, 83 Stat. 32; Pub. L. 91–506, § 6, Oct. 23, 1970, 84 Stat. 1113; Pub. L. 92–341, July 10, 1972, 86 Stat. 432; Pub. L. 93–569, § 9, Dec. 31, 1974, 88 Stat. 1867; Pub. L. 95–476, title I, § 101, Oct. 18, 1978, 92 Stat. 1497; Pub. L. 96–385, title III, § 301(b), Oct. 7, 1980, 94 Stat. 1531; Pub. L. 97–66, title V, § 502, Oct. 17, 1981, 95 Stat. 1032; Pub. L. 97–295, § 4(33), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 98–543, title III, § 304(a), Oct. 24, 1984, 98 Stat. 2748; Pub. L. 99–576, title IV, § 401(b), Oct. 28, 1986, 100 Stat. 3280; Pub. L. 100–322, title III, § 301, May 20, 1988, 102 Stat. 534; renumbered § 2102 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 105–178, title VIII, § 8204(a), June 9, 1998, 112 Stat. 494; Pub. L. 106–419, title III, § 321, Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107–103, title IV, § 404, Dec. 27, 2001, 115 Stat. 993; Pub. L. 108–183, title IV, § 402(a), Dec. 16, 2003, 117 Stat. 2664.)

PRIOR PROVISIONS

Prior section 2102, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1223, related to determination of amount of mustering-out payments, prior to repeal by Pub. L. 89–50, § 1(a), June 24, 1965, 79 Stat. 173, effective July 1, 1966.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, § 402(a)(1), substituted ''$50,000'' for ''$48,000'' in introductory provisions.

Subsec. (b)(2). Pub. L. 108–183, § 402(a)(2), substituted ''$10,000'' for ''$9,250''.

2001—Subsec. (a). Pub. L. 107–103, § 404(1), substituted ''$48,000'' for ''$43,000'' in introductory provisions.

Subsec. (b)(2). Pub. L. 107–103, § 404(2), substituted ''$9,250'' for ''$8,250''.

2000—Subsec. (c). Pub. L. 106–419 added subsec. (c).

1998—Subsec. (a). Pub. L. 105–178, § 8204(a)(1), substituted ''$43,000'' for ''$38,000'' in introductory provisions.

Subsec. (b)(2). Pub. L. 105–178, § 8204(a)(2), substituted ''$8,250'' for ''$6,500''.

1991—Pub. L. 102–83, § 5(a), renumbered section 802 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''2101(a)'' for ''801(a)'' in introductory provisions.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''2104(b)'' for ''804(b)'' and substituted ''2101(b)'' for ''801(b)'' in two places.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (1).

1988—Subsec. (a). Pub. L. 100–322, § 301(1), substituted ''$38,000'' for ''$35,500''.

Subsec. (b)(2). Pub. L. 100–322, § 301(2), substituted ''$6,500'' for ''$6,000''.

1986—Subsec. (b)(1). Pub. L. 99–576 substituted ''cost, or, in the case of a veteran acquiring a residence already adapted with special features, the fair market value,'' for ''cost''.

1984—Subsec. (a). Pub. L. 98–543, § 304(a)(1), substituted ''$35,500'' for ''$32,500'' in provisions before par. (1).

Subsec. (b)(2). Pub. L. 98–543, § 304(a)(2), substituted ''$6,000'' for ''$5,000''.

1982—Subsec. (a). Pub. L. 97–295 substituted ''percent'' for ''per centum'' wherever appearing.

1981—Subsec. (a). Pub. L. 97–66, § 502(1), substituted ''$32,500'' for ''$30,000'' in provisions preceding par. (1), ''such veteran'' for ''him'' in pars. (1), (2), and (3), and ''such veteran's'' for ''his'' in par. (3).

Subsec. (b). Pub. L. 97–66, § 502(2), substituted ''section 804(b)'' for ''section 804(b)(2)''.

1980—Subsec. (a). Pub. L. 96–385, § 301(b)(1), (2), designated existing provisions as subsec. (a) and substituted ''section 801(a)'' for ''section 801''.

Subsec. (b). Pub. L. 96–385, § 301(b)(3), added subsec. (b).

1978—Pub. L. 95–476 substituted ''$30,000'' for ''$25,000''.

1974—Pub. L. 93–569 substituted ''$25,000'' for ''$17,500''.

1972—Pub. L. 92–341 substituted ''$17,500'' for ''$12,500''.

1970—Par. (3). Pub. L. 91–506 inserted provision authorizing Administrator in the case of assistance to disabled veterans for specially adapted housing, where the veteran elects to remodel a dwelling not adapted to his disability, to pay the cost of remodeling as an alternative to the present provisions still set out in this par. which authorize the Administrator to pay the total of 50 percent of the remodeling cost plus 50 percent of the dwelling's cost or the full amount of the unpaid balance of the cost of such dwelling, whichever sum is smaller.

1969—Pub. L. 91–22 substituted ''$12,500'' for ''$10,000''.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title IV, § 402(c), Dec. 16, 2003, 117 Stat. 2664, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 3902 of this title] shall apply with respect to assistance furnished on or after the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title VIII, § 8204(b), June 9, 1998, 112 Stat. 494, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to limitations under section 2102 of such title on assistance furnished to a veteran under section 2101 of such title on or after October 1, 1998.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 304 of Pub. L. 100–322 provided that: ''The amendments made by sections 301, 302, and 303 [amending this section and sections 907 and 1902 [now 2307 and 3902] of this title] shall take effect on April 1, 1988.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 304(b) of Pub. L. 98–543 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1985.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95–476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–569 effective Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as a note under section 3702 of this title.

§ 2103. Furnishing of plans and specifications

The Secretary is authorized to furnish to veterans eligible for assistance under this chapter, without cost to the veterans, model plans and specifications of suitable housing units.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1168, § 803; renumbered § 2103 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 2103, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1223, related to payment of mustering-out payments to beneficiaries of deceased members, prior to repeal by Pub. L. 89–50, § 1(a), June 24, 1965, 79 Stat. 173, effective July 1, 1966.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 803 of this title as this section and substituted ''Secretary'' for ''Administrator''.

§ 2104. Benefits additional to benefits under other laws

(a) Any veteran who accepts the benefits of this chapter shall not by reason thereof be denied the benefits of chapter 37 of this title; however, except as provided in subsection (b) of this section, the assistance authorized by section 2101 of this title shall not be available to any veteran more than once.

(b) A veteran eligible for assistance under section 2101(b) of this title shall not by reason of such eligibility be denied benefits for which such veteran becomes eligible under section 2101(a) of this title or benefits relating to home health services under section 1717(a)(2) of this title. However, no particular type of adaptation, improvement, or structural alteration provided to a veteran under section 1717(a)(2) of this title may be provided to such veteran under section 2101(b) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1169, § 804; Pub. L. 96–385, title III, § 301(c), Oct. 7, 1980, 94 Stat. 1531; renumbered § 2104 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–262, title I, § 101(e)(2), Oct. 9, 1996, 110 Stat. 3180.)

PRIOR PROVISIONS

Prior section 2104, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1223, related to time limitations, prior to repeal by Pub. L. 89–50, § 1(a), June 24, 1965, 79 Stat. 173, effective July 1, 1966.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–275 substituted ''section 1717(a)(2)'' for ''section 1712(a)'' in two places.

1991—Pub. L. 102–83, § 5(a), renumbered section 804 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''2101'' for ''801''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''2101(b)'' for ''801(b)'' in two places, ''2101(a)'' for ''801(a)'', and ''1712(a)'' for ''612(a)'' in two places.

1980—Pub. L. 96–385 designated existing provisions as subsec. (a), substituted ''except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title'' for ''the assistance authorized by this chapter'', and added subsec. (b).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96–385, set out as a note under section 1114 of this title.

§ 2105. Nonliability of United States

The Government of the United States shall have no liability in connection with any housing unit, or necessary land therefor, or adaptation acquired under the provisions of this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1169, § 805; Pub. L. 96–385, title III, § 301(d), Oct. 7, 1980, 94 Stat. 1531; renumbered § 2105, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 2105, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1224, related to administration of mustering-out payments provisions, prior to repeal by Pub. L. 89–50, § 1(a), June 24, 1965, 79 Stat. 173, effective July 1, 1966.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 805 of this title as this section.

1980—Pub. L. 96–385 made the United States not liable for any adaptation in connection with any housing unit.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96–385, set out as a note under section 1114 of this title.

§ 2106. Veterans' mortgage life insurance

(a) The United States shall automatically insure any eligible veteran age 69 or younger who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Secretary in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Secretary for information on which the premium for such insurance can be based.

(b) The amount of insurance provided a veteran under this section may not exceed the lesser of $90,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any

time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Secretary.

(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Secretary prescribes. The rates for such premiums shall be based on such mortality data as the Secretary considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Secretary, the Secretary shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Secretary. Premiums collected on insurance under this section shall be credited to the ''Veterans Insurance and Indemnities'' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

(2) There are authorized to be appropriated to the Secretary for such account such amounts as may be necessary to carry out this section.

(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Secretary is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and deposited in the Veterans Housing Benefit Program Fund established by section 3722 of this title.

(f) The Secretary may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Secretary determines are in the best interest of veterans or the United States.

(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Secretary under this section.

(h) The Secretary shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

(2) Termination of the veteran's ownership of the property securing the loan.

(3) Discontinuance of payment of premiums by the veteran.

(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Secretary.

(Added Pub. L. 92–95, § 1, Aug. 11, 1971, 85 Stat. 320, § 806; amended Pub. L. 94–433, title III, § 302, Sept. 30, 1976, 90 Stat. 1377; Pub. L. 99–576, title VII, § 701(49), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 100–322, title III, § 333(a)(1), May 20, 1988, 102 Stat. 537; renumbered § 2106 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–568, title II, § 204(a), Oct. 29, 1992, 106 Stat. 4325; Pub. L. 103–446, title XII, § 1201(h)(2), Nov. 2, 1994, 108 Stat. 4688; Pub. L. 105–368, title VI, § 602(e)(2), Nov. 11, 1998, 112 Stat. 3347; Pub. L. 107–330, title III, § 302, Dec. 6, 2002, 116 Stat. 2824.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–330, § 302(1), inserted ''age 69 or younger'' after ''any eligible veteran''.

Subsec. (i)(2) to (4). Pub. L. 107–330, § 302(2), redesignated pars. (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: ''The veteran's seventieth birthday.''

1998—Subsec. (e). Pub. L. 105–368 substituted ''deposited in the Veterans Housing Benefit Program Fund established by section 3722 of this title'' for '', as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 3723 or 3724 of this title, respectively''.

1994—Pub. L. 103–446 substituted ''Veterans' mortgage life insurance'' for ''Veterans' Mortgage Life Insurance'' as section catchline.

1992—Subsec. (b). Pub. L. 102–568 struck out ''initial'' after ''The'' and substituted ''$90,000'' for ''$40,000''.

1991—Pub. L. 102–83, § 5(a), renumbered section 806 of this title as this section.

Subsecs. (a) to (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''3723 or 3724'' for ''1823 or 1824''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsecs. (f) to (h), (j). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Pub. L. 100–322 amended section generally, substituting provisions relating to veterans' mortgage life insurance for former provisions relating to mortgage protection life insurance.

1986—Subsec. (b). Pub. L. 99–576, § 701(49)(A), substituted ''the veteran's'' for ''his''.

Subsec. (c). Pub. L. 99–576, § 701(49)(B), substituted ''the veteran'' for ''he'' before ''may thereafter''.

Subsec. (d). Pub. L. 99–576, § 701(49)(C), substituted ''the veteran's'' for ''he'' in last sentence.

Subsec. (g)(2). Pub. L. 99–576, § 701(49)(D)(i), substituted ''the Administrator'' for ''he'' in two places, ''the Administrator's'' for ''his'', and ''the Administrator'' for ''him'' in two places.

Subsec. (g)(3). Pub. L. 99–576, § 701(49)(D)(ii), substituted ''the veteran'' for ''he''.

Subsec. (g)(5). Pub. L. 99–576, § 701(49)(D)(iii), substituted ''the Administrator'' for ''him'' in two places.

Subsec. (h). Pub. L. 99–576, § 701(49)(E), substituted ''the Administrator's'' for ''his'' in first sentence and ''the veteran's'' for ''his'' in second sentence.

1976—Subsec. (c). Pub. L. 94–433 substituted $40,000 for $30,000.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title VI, § 602(f), Nov. 11, 1998, 112 Stat. 3348, provided that: ''This title [enacting sections 3722

and 3771 to 3775 of this title, amending this section and sections 3702, 3703, 3711, 3720, 3727, 3729, 3733 to 3735, and 3763 of this title, repealing sections 3723 to 3725 of this title, and enacting provisions set out as a note under section 3722 of this title] and the amendments made by this title shall take effect on October 1, 1998.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–568 effective Dec. 1, 1992, see section 205 of Pub. L. 102–568, set out as an Effective Date note under section 1922A of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 333(b) of Pub. L. 100–322 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act [May 20, 1988].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

SAVINGS PROVISION; DISCONTINUANCE OF CONTRACT PROGRAM; DEFINITION

Section 333(c)–(e) of Pub. L. 100–322 provided that:

''(c) SAVINGS PROVISION.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b) [see Effective Date of 1988 Amendment note above].

''(d) DISCONTINUANCE OF CONTRACT PROGRAM.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

''(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the 'Veterans Insurance and Indemnities' appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

''(e) FORMER SECTION 806 DEFINED.—For the purpose of subsections (c) and (d), the term 'former section 806' means section 806 [this section] of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).''

CHAPTER 23—BURIAL BENEFITS

Sec.
2301. Flags.
2302. Funeral expenses.
2303. Death in Department facility; plot allowance.
2304. Claims for reimbursement.
2305. Persons eligible under prior law.
2306. Headstones, markers, and burial receptacles.
2307. Death from service-connected disability.
2308. Transportation of deceased veteran to a national cemetery.

AMENDMENTS

1996—Pub. L. 104–275, title II, § 213(b)(2), Oct. 9, 1996, 110 Stat. 3332, substituted ''burial receptacles'' for ''grave liners'' in item 2306.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 901 to 908 as 2301 to 2308, respectively.

Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''Department'' for ''Veterans' Administration'' in item 903.

1988—Pub. L. 100–322, title III, § 344(b)(2), May 20, 1988, 102 Stat. 540, substituted ''Headstones, markers, and grave liners'' for ''Headstones and markers'' in item 906.

1976—Pub. L. 94–433, title III, § 304(b), Sept. 30, 1976, 90 Stat. 1377, added item 908.

1973—Pub. L. 93–43, § 5(b), June 18, 1973, 87 Stat. 81, inserted ''; plot allowance'' in item 903 and added items 906 and 907.

§ 2301. Flags

(a) The Secretary shall furnish a flag to drape the casket of each—

(1) deceased veteran who—

(A) was a veteran of any war, or of service after January 31, 1955;

(B) had served at least one enlistment; or

(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty; and

(2) deceased individual who at the time of death was entitled to retired pay under chapter 67[1] of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(b) After the burial of the veteran the flag so furnished shall be given to the veteran's next of kin. If no claim is made for the flag by the next of kin, it may be given, upon request, to a close friend or associate of the deceased veteran. If a flag is given to a close friend or associate of the deceased veteran, no flag shall be given to any other person on account of the death of such veteran.

(c) For the purpose of this section, the term ''Mexican border period'' as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916.

(d) In the case of any person who died while in the active military, naval, or air service after May 27, 1941, the Secretary shall furnish a flag to the next of kin, or to such other person as the Secretary considers most appropriate, if such next of kin or other person is not otherwise entitled to receive a flag under this section or under section 1482(a) of title 10.

(e) The Secretary shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery by virtue of eligibility for burial in such cemetery under section 2402(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Secretary considers appropriate.

(f)(1) The Secretary shall furnish a flag to drape the casket of each deceased member or former member of the Selected Reserve (as described in section 10143 of title 10) who is not otherwise eligible for a flag under this section or section 1482(a) of title 10—

(A) who completed at least one enlistment as a member of the Selected Reserve or, in the case of an officer, completed the period of initial obligated service as a member of the Selected Reserve;

[1] See References in Text note below.

(B) who was discharged before completion of the person's initial enlistment as a member of the Selected Reserve or, in the case of an officer, period of initial obligated service as a member of the Selected Reserve, for a disability incurred or aggravated in line of duty; or

(C) who died while a member of the Selected Reserve.

(2) A flag may not be furnished under subparagraph (A) or (B) of paragraph (1) in the case of a person whose last discharge from service in the Armed Forces was under conditions less favorable than honorable.

(3) After the burial, a flag furnished under paragraph (1) shall be given to the next of kin or to such other person as the Secretary considers appropriate.

(g) A flag may not be furnished under this section in the case of a person described in section 2411(b) of this title.

(h)(1) The Secretary may not procure any flag for the purposes of this section that is not wholly produced in the United States.

(2)(A) The Secretary may waive the requirement of paragraph (1) if the Secretary determines—

(i) that the requirement cannot be reasonably met; or

(ii) that compliance with the requirement would not be in the national interest of the United States.

(B) The Secretary shall submit to Congress in writing notice of a determination under subparagraph (A) not later than 30 days after the date on which such determination is made.

(3) For the purpose of paragraph (1), a flag shall be considered to be wholly produced in the United States only if—

(A) the materials and components of the flag are entirely grown, manufactured, or created in the United States;

(B) the processing (including spinning, weaving, dyeing, and finishing) of such materials and components is entirely performed in the United States; and

(C) the manufacture and assembling of such materials and components into the flag is entirely performed in the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1169, § 901; Pub. L. 87–240, Sept. 14, 1961, 75 Stat. 512; Pub. L. 89–358, § 9, Mar. 3, 1966, 80 Stat. 28; Pub. L. 90–77, title IV, § 402, Aug. 31, 1967, 81 Stat. 190; Pub. L. 91–588, § 9(g), Dec. 24, 1970, 84 Stat. 1585; Pub. L. 97–306, title IV, § 402(a), Oct. 14, 1982, 96 Stat. 1442; Pub. L. 99–576, title VII, § 701(50), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–54, § 14(b)(20), June 13, 1991, 105 Stat. 284; renumbered § 2301 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 11(a), Oct. 28, 1992, 106 Stat. 3644; Pub. L. 105–261, div. A, title V, § 517, title X, § 1073(a), Oct. 17, 1998, 112 Stat. 2009, 2137; Pub. L. 107–14, § 8(a)(3), June 5, 2001, 115 Stat. 34; Pub. L. 107–330, title II, § 201(b), Dec. 6, 2002, 116 Stat. 2823.)

REFERENCES IN TEXT

Chapter 67 of title 10, referred to in subsec. (a)(2), was transferred to part II of subtitle E of Title 10, Armed Forces, renumbered as chapter 1223, and amended generally by Pub. L. 103–337, div. A, title XVI, § 1662(j)(1), Oct. 5, 1994, 108 Stat. 2998. A new chapter 67 (§ 1331) of Title 10 was added by section 1662(j)(7) of Pub. L. 103–337.

AMENDMENTS

2002—Subsecs. (g), (h). Pub. L. 107–330 added subsec. (g) and redesignated former subsec. (g) as (h).

2001—Subsec. (f)(1). Pub. L. 107–14, § 8(a)(3)(A), directed the substitution of "(as described in section" for "(as described in section" in introductory provisions, requiring no change in text.

Subsec. (f)(2). Pub. L. 107–14, § 8(a)(3)(B), substituted "subparagraph" for "subparagraphs".

1998—Subsec. (f). Pub. L. 105–261, § 517, added subsec. (f).

Subsec. (g). Pub. L. 105–261, § 1073(a), added subsec. (g).

1992—Subsec. (a). Pub. L. 102–547 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The Secretary shall furnish a flag to drape the casket of each deceased veteran who—

"(1) was a veteran of any war, or of service after January 31, 1955;

"(2) had served at least one enlistment; or

"(3) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty."

1991—Pub. L. 102–83, § 5(a), renumbered section 901 of this title as this section.

Subsec. (d). Pub. L. 102–54 substituted "considers" for "deems", struck out comma after "this section", and struck out ", United States Code" after "title 10".

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted "2402(6)" for "1002(6)".

1989—Subsecs. (a), (d), (e). Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (b). Pub. L. 99–576 substituted "the veteran's" for "his".

1982—Subsec. (e). Pub. L. 97–306 added subsec. (e).

1970—Subsec. (a). Pub. L. 91–588, § 9(g)(1), struck out reference to the Mexican border service.

Subsec. (c). Pub. L. 91–588, § 9(g)(2), substituted "For the purpose of this section, the term 'Mexican border period' as defined in paragraph (30) of section 101 of this title includes the period beginning on January 1, 1911, and ending on May 8, 1916" for "For the purpose of this section, the term 'Mexican border service' means active military, naval, or air service during the period beginning on January 1, 1911, and ending on April 5, 1917, in Mexico, on the borders thereof, or in the waters adjacent thereto".

1967—Subsec. (d). Pub. L. 90–77 added subsec. (d).

1966—Subsec. (a)(1). Pub. L. 89–358 required a flag to be furnished to drape the casket of a deceased veteran who served after Jan. 31, 1955.

1961—Subsec. (a). Pub. L. 87–240, § 1(1), inserted "or of Mexican border service" after "veteran of any war".

Subsec. (c). Pub. L. 87–240, § 1(2), added subsec. (c).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–330 applicable with respect to deaths occurring on or after Dec. 6, 2002, see section 201(d) of Pub. L. 107–330, set out as a note under section 112 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–261, div. A, title X, § 1073(b), Oct. 17, 1998, 112 Stat. 2138, provided that: "Subsection (g) of section 2301 of title 38, United States Code, as added by subsection (a), shall apply to flags procured by the Secretary of Veterans Affairs for the purposes of section 2301 of title 38, United States Code, after the end of the 30-day period beginning on the date of the enactment of this Act [Oct. 17, 1998]."

EFFECTIVE DATE OF 1982 AMENDMENT

Section 402(b) of Pub. L. 97–306 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to burials after September 30, 1982."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 2302. Funeral expenses

(a) In the case of a deceased veteran—

(1) who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or

(2) who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and with respect to whom the Secretary determines—

(A) that there is no next of kin or other person claiming the body of the deceased veteran, and

(B) that there are not available sufficient resources to cover burial and funeral expenses,

the Secretary, in the Secretary's discretion, having due regard to the circumstances in each case, may pay a sum not exceeding $300 to such person as the Secretary prescribes to cover the burial and funeral expenses of the deceased veteran and the expense of preparing the body and transporting it to the place of burial. For the purpose of this subsection, the term ''veteran'' includes a person who died during a period deemed to be active military, naval, or air service under section 106(c) of this title.

(b) Except as hereafter provided in this subsection, no deduction shall be made from the burial allowance because of the veteran's net assets at the time of the death of such veteran, or because of any contribution from any source toward the burial and funeral expenses (including transportation) unless the amount of expenses incurred is covered by the amount actually paid therefor by the United States, a State, any agency or political subdivision of the United States or of a State, or the employer of the deceased veteran. No claim shall be allowed (1) for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing, or (2) when the burial allowance would revert to the funds of a public or private organization or would discharge such an organization's obligation without payment. The burial allowance or any part thereof shall not be paid in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other Act.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1169, § 902; Pub. L. 88–359, July 7, 1964, 78 Stat. 296; Pub. L. 89–360, Mar. 7, 1966, 80 Stat. 29; Pub. L. 95–476, title II, § 203(b), Oct. 18, 1978, 92 Stat. 1506; Pub. L. 95–479, title III, § 303(a), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 97–35, title XX, § 2001(a)(1), Aug. 13, 1981, 95 Stat. 781; Pub. L. 97–306, title IV, § 403[(a)], Oct. 14, 1982, 96 Stat. 1443; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2302, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 902 of this title as this section.

1989—Subsec. (a). Pub. L. 101–237 substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

1982—Subsec. (a). Pub. L. 97–306 substituted requirement of a deceased veteran who at the time of death was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or was in receipt of pension, or who was a veteran of any war or was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State), and with respect to whom the Administrator determines that there is no next of kin or other person claiming the body of the deceased veteran, and that there are not available sufficient resources to cover burial and funeral expenses, for requirement of a veteran who dies in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or in receipt of pension.

1981—Subsec. (a). Pub. L. 97–35 substituted provisions relating to death of a veteran in receipt of compensation or a pension, for provisions relating to a veteran who dies of a service-connected disability, or who was a veteran of any war, discharged for a disability incurred or aggravated in line of duty, or in receipt of disability compensation.

1978—Subsec. (a). Pub. L. 95–479 substituted ''$300'' for ''$250''.

Pub. L. 95–476, § 203(b)(1), (2), substituted ''in the Administrator's discretion'' and ''as the Administrator prescribes'' for ''in his discretion'' and ''as he prescribes'', respectively.

Subsec. (b). Pub. L. 95–476, § 203(b)(3), substituted ''the death of such veteran'' for ''his death''.

1966—Subsec. (a). Pub. L. 89–360 extended authorized burial allowance to include peacetime veterans who die of a service connected disability but who have neither applied for disability compensation for disability nor been discharged for disability.

1964—Subsec. (b). Pub. L. 88–359 provided that no claim shall be allowed when allowance would revert to the funds of a public or private organization, or would discharge such an organization's obligation without payment, and struck out requirement that amounts paid by burial associations toward burial and funeral expenses be deducted prior to payment of allowance.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 403(b) of Pub. L. 97–306 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to burial and funeral expenses incurred after September 30, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2001(a)(2) of Pub. L. 97–35 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect with respect to deaths occurring after September 30, 1981.''

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

Amendment by Pub. L. 95–476 effective Oct. 18, 1978, see section 205(a) of Pub. L. 95–476, set out as a note under section 2303 of this title.

§ 2303. Death in Department facility; plot allowance

(a)(1) When a veteran dies in a facility described in paragraph (2), the Secretary shall—

(A) pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Department; and

(B) when such a death occurs in a State, transport the body to the place of burial in the same or any other State.

(2) A facility described in this paragraph is—

(A) a facility of the Department (as defined in section 1701(3) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title; or

(B) an institution at which the deceased veteran was, at the time of death, receiving—

(i) hospital care in accordance with section 1703 of this title;

(ii) nursing home care under section 1720 of this title; or

(iii) nursing home care for which payments are made under section 1741 of this title.

(b) In addition to the benefits provided for under section 2302 of this title and subsection (a) of this section, in the case of a veteran who is eligible for burial in a national cemetery under section 2402 of this title and who is not buried in a national cemetery or other cemetery under the jurisdiction of the United States—

(1) if such veteran is buried (without charge for the cost of a plot or interment) in a cemetery, or a section of a cemetery, that (A) is used solely for the interment of persons who are (i) eligible for burial in a national cemetery, and (ii) members of a reserve component of the Armed Forces not otherwise eligible for such burial or former members of such a reserve component not otherwise eligible for such burial who are discharged or released from service under conditions other than dishonorable, and (B) is owned by a State or by an agency or political subdivision of a State, the Secretary shall pay to such State, agency, or political subdivision the sum of $300 as a plot or interment allowance for such veteran; and

(2) if such veteran is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran is buried in a cemetery, or a section of a cemetery, other than as described in clause (1) of this subsection, the Secretary shall pay a sum not exceeding $300 as a plot or interment allowance to such person as the Secretary prescribes, except that if any part of the plot or interment costs of a burial to which this clause applies has been paid or assumed by a State, an agency or political subdivision of a State, or a former employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid or assumed by any or all of the foregoing entities.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1170, § 903; Pub. L. 86–70, § 29(a), June 25, 1959, 73 Stat. 148; Pub. L. 86–624, § 25(b), July 12, 1960, 74 Stat. 418; Pub. L. 87–99, July 21, 1961, 75 Stat. 218; Pub. L. 89–358, § 4(i), Mar. 3, 1966, 80 Stat. 24; Pub. L. 93–43, § 5(a)(1), June 18, 1973, 87 Stat. 80; Pub. L. 94–581, title II, § 204, Oct. 21, 1976, 90 Stat. 2856; Pub. L. 95–476, title II, § 202(a), Oct. 18, 1978, 92 Stat. 1503; Pub. L. 95–479, title III, § 303(a), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 97–35, title XX, § 2001(b), Aug. 13, 1981, 95 Stat. 781; Pub. L. 97–306, title IV, § 404(a), Oct. 14, 1982, 96 Stat. 1443; Pub. L. 99–272, title XIX, § 19012(c)(4), Apr. 7, 1986, 100 Stat. 382; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 101–508, title VIII, § 8042(a), Nov. 5, 1990, 104 Stat. 1388–349; renumbered § 2303 and amended Pub. L. 102–83, §§ 4(a)(3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–275, title II, § 212, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105–114, title IV, § 401(a), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 106–419, title III, § 333(a), Nov. 1, 2000, 114 Stat. 1856; Pub. L. 107–103, title V, § 501(b)(1), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108–183, title V, § 501(a), Dec. 16, 2003, 117 Stat. 2666.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–183, § 501(a)(1), in introductory provisions, substituted ''burial in a national cemetery under section 2402 of this title'' for ''a burial allowance under such section 2302, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war''.

Subsec. (b)(2). Pub. L. 108–183, § 501(a)(2), substituted ''is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, and such veteran'' for ''(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)''.

2001—Subsec. (b)(1), (2). Pub. L. 107–103 substituted ''$300'' for ''$150''.

2000—Subsec. (b)(1)(A). Pub. L. 106–419 amended cl. (A) generally. Prior to amendment, cl. (A) read as follows: ''is used solely for the interment of persons eligible for burial in a national cemetery, and''.

1997—Subsec. (a)(2)(A). Pub. L. 105–114 substituted ''a facility of the Department (as defined in section 1701(3) of this title)'' for ''a Department facility (as defined in section 1701(4) of this title)''.

1996—Subsec. (a). Pub. L. 104–275 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''When a veteran dies in a Department facility (as defined in section 1701(4) of this title) to which the deceased was properly admitted for hospital, nursing home, or domiciliary care under section 1710 or 1711(a) of this title or in an institution at which the deceased veteran was receiving hospital care in accordance with section 1703 of this title or nursing home care under section 1720 of this title at the expense of the United States at the time of death, the Secretary—

''(1) shall pay the actual cost (not to exceed $300) of the burial and funeral or, within such limits, may make contracts for such services without regard to the laws requiring advertisement for proposals for supplies and services for the Department; and

''(2) shall, when such a death occurs in a State, transport the body to the place of burial in the same or any other State.''

1991—Pub. L. 102–83, § 5(a), renumbered section 903 of this title as this section.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in section catchline.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1701(4)'' for ''601(4)'', ''1710 or 1711(a)'' for ''610 or 611(a)'', ''1703'' for ''603'', and ''1720'' for ''620'' in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions and in par. (1).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''2302'' for ''902'' in two places in introductory provisions.

1990—Subsec. (b)(2). Pub. L. 101–508 inserted ''(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)'' after ''if such veteran''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (a). Pub. L. 99–272 inserted ''hospital care in accordance with section 603 of this title or''.

1982—Subsec. (a). Pub. L. 97–306 substituted ''When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)'' for ''Where death occurs in a Veterans' Administration facility'' and inserted ''or in an institution at which the deceased veteran was receiving nursing home care under section 620 of this title at the expense of the United States at the time of death'' after ''611(a) of this title.

1981—Subsec. (b). Pub. L. 97–35 inserted provisions relating to a veteran discharged from active duty for a disability incurred or aggravated in the line of duty, or a war veteran.

1978—Subsec. (a)(1). Pub. L. 95–479 substituted ''$300'' for $250''.

Subsec. (b). Pub. L. 95–476 substituted provisions requiring Administrator to pay an interment allowance of $150 to a State or an agency or subdivision of a State, for burial of an eligible veteran in a cemetery, reserved for burial of persons eligible for burial in a national cemetery, owned by the State or such agency or political subdivision, or to any person prescribed by Administrator for burial of an eligible veteran in a cemetery other than one so reserved for provisions authorizing Administrator in his discretion to pay up to $150 as an interment allowance to any person he prescribed.

1976—Subsec. (a). Pub. L. 94–581 inserted '', nursing home,'' after ''hospital'' and substituted ''611(a)'' for ''611'' in provisions preceding par. (1).

1973—Pub. L. 93–43, in revising text, substituted reference to section ''611'' for ''611(a)'' in opening text of subsec. (a), designated existing provisions of subsec. (a) as first part of par. (1) of such subsec. (a), incorporated provisions of former subsec. (c) as second part of par. (1) of subsec. (a), redesignated former subsec. (b) as par. (2) of subsec. (a), and added subsec. (b).

1966—Subsec. (b). Pub. L. 89–358 struck out last sentence including the Canal Zone in the term ''State'' for purposes of subsec. (b), now incorporated in section 101(20) of this title.

1961—Subsec. (b). Pub. L. 87–99 substituted ''a State'' and ''in the same, or any other State'' for ''the continental United States or Hawaii'' and ''in the continental United States or Hawaii'', respectively, and defined State to include Canal Zone.

1960—Subsec. (b). Pub. L. 86–624 substituted ''continental United States or Hawaii'' for ''continental United States (including Alaska)'' in two places.

1959—Subsec. (b). Pub. L. 86–70 substituted ''continental United States (including Alaska), the Administrator shall transport the body to the place of burial in the continental United States (including Alaska)'' for ''continental United States, the Administrator shall transport the body to the place of burial in the United States, or to the place of burial within Alaska if the deceased was a resident of Alaska who had been brought to the United States as a beneficiary of the Veterans' Administration for hospital or domiciliary care''.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title V, § 501(b)(2), Dec. 27, 2001, 115 Stat. 994, provided that: ''The amendments made by paragraph (1) [amending this section] shall apply to deaths occurring on or after December 1, 2001.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title III, § 333(b), Nov. 1, 2000, 114 Stat. 1857, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to the burial of persons dying on or after the date of the enactment of this Act [Nov. 1, 2000].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8042(b) of Pub. L. 101–508 provided that: ''This section [amending this section] shall apply to deaths occurring on or after November 1, 1990.''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 404(b) of Pub. L. 97–306 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to deaths occurring after September 30, 1982.''

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

Section 205 of title II of Pub. L. 95–476 provided that:

''(a) Except as provided in subsection (b), the amendments made by this title [enacting section 1008 [now 2408] of this title and amending sections 902, 906, and 1798 [now 2302, 2306, and 3698] of this title] shall take effect on the date of the enactment of this Act [Oct. 18, 1978].

''(b) The amendment made by section 202(a) of this title [amending this section] shall take effect on October 1, 1978.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 10(b) of Pub. L. 93–43 provided that: ''Clause (1) of section 5(a) [amending this section] shall take effect on the first day of the second calendar month following the date of enactment of this Act [June 18, 1973].''

§ 2304. Claims for reimbursement

Applications for payments under section 2302 of this title must be filed within two years after the burial of the veteran. If the burial allowance was not payable at the death of the veteran because of the nature of the veteran's discharge from the service, but after the veteran's death the veteran's discharge has been corrected by competent authority so as to reflect a discharge from the service under conditions other than dishonorable, then the burial allowance may be paid if a claim is filed within two years from the date of correction of the discharge. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the applicant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no allowance may be paid.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1170, § 904; Pub. L. 88–3, Apr. 2, 1963, 77 Stat. 4; Pub. L. 91–24, § 7, June 11, 1969, 83 Stat. 34; Pub. L. 99–576, title VII, § 701(51), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2304 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 904 of this title as this section and substituted ''2302'' for ''902''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1986—Pub. L. 99–576 substituted ''the veteran's'' for ''his'' in three places.

1969—Pub. L. 91–24 substituted ''two years from the date of correction of the discharge'' for ''two years from whichever last occurs, the date of correction of the discharge or the date of enactment of this sentence''.

1963—Pub. L. 88–3 authorized payment of a burial allowance in cases where it was not payable at death because of the nature of the veteran's discharge, where such discharge has been corrected by competent authority to reflect conditions other than dishonorable, and the claim is filed within two years from whichever last occurs, the date of correction of the discharge or the date of enactment of Pub. L. 88–3 [approved Apr. 2, 1963].

§ 2305. Persons eligible under prior law

The death of any person who had a status which would, under the laws in effect on December 31, 1957, afford entitlement to the burial benefits and other benefits provided for in this chapter, but who did not meet the service requirements contained in this chapter, shall afford entitlement to such benefits, notwithstanding the failure of such person to meet such service requirements.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1170, § 905; renumbered § 2305, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 905 of this title as this section.

§ 2306. Headstones, markers, and burial receptacles

(a) The Secretary shall furnish, when requested, appropriate Government headstones or markers at the expense of the United States for the unmarked graves of the following:

(1) Any individual buried in a national cemetery or in a post cemetery.

(2) Any individual eligible for burial in a national cemetery (but not buried there), except for those persons or classes of persons enumerated in section 2402(4), (5), and (6) of this title.

(3) Soldiers of the Union and Confederate Armies of the Civil War.

(4) Any individual described in section 2402(5) of this title who is buried in a veterans' cemetery owned by a State.

(5) Any individual who at the time of death was entitled to retired pay under chapter 1223 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(b)(1) The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating an eligible individual whose remains are unavailable. Such a headstone or marker shall be furnished for placement in a national cemetery area reserved for that purpose under section 2403 of this title, a veterans' cemetery owned by a State, or, in the case of a veteran, in a State, local, or private cemetery.

(2) For purposes of paragraph (1), an eligible individual is any of the following:

(A) A veteran.

(B) The spouse or surviving spouse of a veteran.

(3) For purposes of paragraph (1), the remains of an individual shall be considered to be unavailable if the individual's remains—

(A) have not been recovered or identified;

(B) were buried at sea, whether by the individual's own choice or otherwise;

(C) were donated to science; or

(D) were cremated and the ashes scattered without interment of any portion of the ashes.

(4) For purposes of this subsection:

(A) The term ''veteran'' includes an individual who dies in the active military, naval, or air service.

(B) The term ''surviving spouse'' includes an unremarried surviving spouse whose subsequent remarriage was terminated by death or divorce.

(c) A headstone or marker furnished under subsection (a), (b), or (d) of this section may be of any material, including but not limited to marble, granite, bronze, or slate, requested by the person entitled to request such headstone or marker if the material requested is determined by the Secretary (1) to be cost effective, and (2) in a case in which the headstone or marker is to be placed in a national cemetery, to be aesthetically compatible with the area of the cemetery in which it is to be placed.

(d)(1) The Secretary shall furnish, when requested, an appropriate Government marker at the expense of the United States for the grave of an individual described in paragraph (2) or (5) of subsection (a) who is buried in a private cemetery, notwithstanding that the grave is marked by a headstone or marker furnished at private expense. Such a marker may be furnished only if the individual making the request for the Government marker certifies to the Secretary that the marker will be placed on the grave for which the marker is requested.

(2) Any marker furnished under this subsection shall be delivered by the Secretary directly to the cemetery where the grave is located.

(3) The authority to furnish a marker under this subsection expires on December 31, 2006.

(4) Not later than February 1, 2006, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the use of the authority under this subsection. The report shall include the following:

(A) The rate of use of the benefit under this subsection, shown by fiscal year.

(B) An assessment as to the extent to which markers furnished under this subsection are being delivered to cemeteries and placed on grave sites consistent with the provisions of this subsection.

(C) The Secretary's recommendation for extension or repeal of the expiration date specified in paragraph (3).

(e)(1) The Secretary of Veterans Affairs shall provide an outer burial receptacle for each new grave in an open cemetery under the control of the National Cemetery Administration in which remains are interred in a casket. The Secretary

of the Army may provide an outer burial receptacle for such a grave in the Arlington National Cemetery.

(2) The use of outer burial receptacles in a cemetery under the control of the National Cemetery Administration or in the Arlington National Cemetery shall be in accordance with regulations or procedures approved by the Secretary of Veterans Affairs or Secretary of the Army, respectively.

(3) Regulations or procedures under paragraph (2) may specify that—

(A) an outer burial receptacle other than a grave liner be provided in lieu of a grave liner at the election of the survivors of the interred veteran; and

(B) if an outer burial receptacle other than a grave liner is provided in lieu of a grave liner upon an election of such survivors, such survivors be required—

(i) to pay the amount by which the cost of the outer burial receptacle exceeds the cost of the grave liner that would otherwise have been provided in the absence of the election; and

(ii) to pay the amount of the administrative costs incurred by the Secretary (or, with respect to Arlington National Cemetery, the Secretary of the Army) in providing the outer burial receptacle in lieu of such grave liner.

(4) Regulations or procedures under paragraph (2) may provide for the use of a voucher system, or other system of reimbursement approved by the Secretary (or, with respect to Arlington National Cemetery, the Secretary of the Army), for payment for outer burial receptacles other than grave liners provided under such regulations or procedures.

(f)(1) When the Secretary has furnished a headstone or marker under subsection (a) for the unmarked grave of an individual, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate headstone or marker under that subsection for the surviving spouse of such individual.

(2) When the Secretary has furnished a memorial headstone or marker under subsection (b) for purposes of commemorating a veteran or an individual who died in the active military, naval, or air service, the Secretary shall, if feasible, add a memorial inscription to that headstone or marker rather than furnishing a separate memorial headstone or marker under that subsection for the surviving spouse of such individual.

(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.

(Added Pub. L. 93–43, § 5(a)(2), June 18, 1973, 87 Stat. 80, § 906; amended Pub. L. 95–476, title II, § 203(a), Oct. 18, 1978, 92 Stat. 1505; Pub. L. 95–479, title III, § 303(b), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 96–385, title V, § 502, Oct. 7, 1980, 94 Stat. 1534; Pub. L. 97–66, title VI, § 603(a), Oct. 17, 1981, 95 Stat. 1034; Pub. L. 100–322, title III, § 344(a), (b)(1), May 20, 1988, 102 Stat. 540; Pub. L. 101–237, title III, § 313(b)(1), (3), title V, §§ 501, 504(a), Dec. 18, 1989, 103 Stat. 2077, 2093, 2094; Pub. L. 101–508, title VIII, § 8041(a), Nov. 5, 1990, 104 Stat. 1388–349; renumbered § 2306 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 11(b), Oct. 28, 1992, 106 Stat. 3644; Pub. L. 104–275, title II, § 213(a), (b)(1), Oct. 9, 1996, 110 Stat. 3331, 3332; Pub. L. 105–368, title IV, §§ 401(a), (b), 403(c)(2), Nov. 11, 1998, 112 Stat. 3334, 3335, 3338; Pub. L. 107–103, title V, § 502(a)–(c), Dec. 27, 2001, 115 Stat. 994, 995; Pub. L. 107–330, title II, § 201(c), Dec. 6, 2002, 116 Stat. 2823.)

AMENDMENTS

2002—Subsec. (g). Pub. L. 107–330 added subsec. (g).

2001—Subsec. (a)(5). Pub. L. 107–103, § 502(c), substituted "chapter 1223" for "chapter 67".

Subsec. (c). Pub. L. 107–103, § 502(b), substituted "subsection (a), (b), or (d)" for "subsection (a) or (b)".

Subsecs. (d) to (f). Pub. L. 107–103, § 502(a), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1998—Subsec. (b). Pub. L. 105–368, § 401(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "The Secretary shall furnish, when requested, an appropriate memorial headstone or marker for the purpose of commemorating any veteran—

"(1) whose remains have not been recovered or identified,

"(2) whose remains were buried at sea, whether by the veteran's own choice or otherwise,

"(3) whose remains were donated to science, or

"(4) whose remains were cremated and the ashes scattered without interment of any portion of the ashes,

for placement by the applicant in a national cemetery area reserved for such purpose under the provisions of section 2403 of this title or in a State, local, or private cemetery."

Subsec. (d)(1), (2). Pub. L. 105–368, § 403(c)(2), substituted "under the control of the National Cemetery Administration" for "within the National Cemetery System".

Subsec. (e). Pub. L. 105–368, § 401(b), added subsec. (e).

1996—Pub. L. 104–275, § 213(b)(1), substituted "burial receptacles" for "grave liners" in section catchline.

Subsec. (d)(1). Pub. L. 104–275, § 213(a)(1), substituted "an outer burial receptacle" for "a grave liner" in two places.

Subsec. (d)(2). Pub. L. 104–275, § 213(a)(2), substituted "outer burial receptacles" for "grave liners" and "regulations or procedures" for "specifications and procedures".

Subsec. (d)(3), (4). Pub. L. 104–275, § 213(a)(3), added pars. (3) and (4).

1992—Subsec. (a)(5). Pub. L. 102–547 added par. (5).

1991—Pub. L. 102–83, § 5(a), renumbered section 906 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "2402(4)" for "1002(4)" in par. (2) and "2402(5)" for "1002(5)" in par. (4).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted "2403" for "1003" in concluding provisions.

1990—Subsecs. (d), (e). Pub. L. 101–508 redesignated subsec. (e) as (d) and struck out former subsec. (d) which read as follows: "In lieu of furnishing a headstone or marker under subsection (a)(2) or (b) of this section, the Secretary, in the Secretary's discretion, having due regard for the circumstances in each case, may reimburse the person entitled to request such

headstone or marker for the cost of acquiring a non-Government headstone or marker for placement in any cemetery other than a national cemetery in connection with the burial or memorialization of the deceased individual. The cost referred to in the preceding sentence is the cost actually incurred by or on behalf of such person or the cost prepaid by the deceased individual, as the case may be. Reimbursement under this subsection may be made only upon the request of the person entitled to request the headstone or marker and may not be made in an amount in excess of the average actual cost, as determined by the Secretary, of headstones and markers furnished under subsections (a) and (b) of this section.''

1989—Subsecs. (a) to (c). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator''.

Subsec. (d). Pub. L. 101–237, § 501, substituted ''cost of acquiring'' for ''actual costs incurred by or on behalf of such person in acquiring'' in first sentence, inserted after first sentence ''The cost referred to in the preceding sentence is the cost actually incurred by or on behalf of such person or the cost prepaid by the deceased individual, as the case may be.'', and substituted ''this subsection'' for ''the preceding sentence'' in last sentence.

Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

Subsec. (e)(1). Pub. L. 101–237, § 504(a), inserted first sentence and struck out former first sentence which read as follows: ''The Secretary may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket.''

Pub. L. 101–237, § 313(b)(1), substituted ''Secretary may provide'' for ''Administrator may provide''.

Subsec. (e)(2). Pub. L. 101–237, § 313(b)(3), substituted ''Secretary of Veterans Affairs or Secretary of the Army'' for ''Administrator or the Secretary''.

1988—Pub. L. 100–322, § 344(b)(1), substituted ''Headstones, markers, and grave liners'' for ''Headstones and markers'' in section catchline.

Subsec. (e). Pub. L. 100–322, § 344(a), added subsec. (e).

1981—Subsec. (b). Pub. L. 97–66 inserted provisions relating to veterans whose remains were donated to science or whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

1980—Subsec. (a)(4). Pub. L. 96–385 added par. (4).

1978—Subsec. (b). Pub. L. 95–479 struck out ''dying in the service, and'' after ''to commemorate any veteran''.

Subsecs. (c), (d). Pub. L. 95–476 added subsecs. (c) and (d).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–330 applicable with respect to deaths occurring on or after Dec. 6, 2002, see section 201(d) of Pub. L. 107–330, set out as a note under section 112 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title V, § 502(d), Dec. 27, 2001, 115 Stat. 995, as amended by Pub. L. 107–330, title II, § 203(a), Dec. 6, 2002, 116 Stat. 2824, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to markers for the graves of individuals dying on or after September 11, 2001.''

[Pub. L. 107–330, title II, § 203(b), Dec. 6, 2002, 116 Stat. 2824, provided that: ''The amendment made by subsection (a) [amending section 502(d) of Pub. L. 107–103, set out above] shall take effect as if included in the enactment of such section 502.'']

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title IV, § 401(d), Nov. 11, 1998, 112 Stat. 3335, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply to deaths occurring after the date of the enactment of this Act [Nov. 11, 1998].''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8041(b) of Pub. L. 101–508 provided that: ''This section [amending this section] shall apply to deaths occurring on or after November 1, 1990.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 504(b) of Pub. L. 101–237 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to interments that occur after January 1, 1990.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 applicable with respect to veterans dying before, on, or after Oct. 17, 1981, see section 701(b)(6) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only with respect to individuals who die after Sept. 30, 1980, see section 601(c) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENTS

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

Amendment by Pub. L. 95–476 effective Oct. 18, 1978, see section 205(a) of Pub. L. 95–476, set out as a note under section 2303 of this title.

EFFECTIVE DATE

Section 10(c) of Pub. L. 93–43 provided that: ''Clause (2) of section 5(a) [enacting this section and section 907 [now 2307] of this title] and sections 6 [enacting provisions set out a note under section 2404 of this title] and 7 [repealing sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of Title 24, Hospitals and Asylums, and enacting provisions set out as notes under sections 271 to 276 of Title 24] of this Act shall take effect September 1, 1973, or on such earlier date as the President may prescribe and publish in the Federal Register.''

§ 2307. Death from service-connected disability

In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Secretary, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the greater of (1) $2,000, or (2) the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 2302 and 2303(a)(1) and (b)(2) of this title.

(Added Pub. L. 93–43, § 5(a)(2), June 18, 1973, 87 Stat. 80, § 907; amended Pub. L. 95–479, title III, § 303(c), Oct. 18, 1978, 92 Stat. 1565; Pub. L. 100–322, title III, § 303, May 20, 1988, 102 Stat. 534; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2307 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–103, title V, § 501(a)(1), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108–183, title V, § 501(b), Dec. 16, 2003, 117 Stat. 2667.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–183 substituted ''and (b)(2)'' for ''and (b)'' in last sentence.

2001—Pub. L. 107–103 substituted ''$2,000'' for ''$1,500''.

1991—Pub. L. 102–83 renumbered section 907 of this title as this section and substituted ''2302 and 2303(a)(1)'' for ''902 and 903(a)(1)''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1988—Pub. L. 100–322 substituted ''$1,500'' for ''$1,100''.

1978—Pub. L. 95–479 inserted ''the greater of (1) $1,100, or (2)'' after ''not exceeding''.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title V, § 501(a)(2), Dec. 27, 2001, 115 Stat. 994, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply to deaths occurring on or after September 11, 2001.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–322 effective Apr. 1, 1988, see section 304 of Pub. L. 100–322, set out as a note under section 2102 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as a note under section 2306 of this title.

§ 2308. Transportation of deceased veteran to a national cemetery

Where a veteran dies as the result of a service-connected disability, or is in receipt of (but for the receipt of retirement pay or pension under this title would have been entitled to) disability compensation, the Secretary may pay, in addition to any amount paid pursuant to section 2302 or 2307 of this title, the cost of transportation of the deceased veteran for burial in a national cemetery. Such payment shall not exceed the cost of transportation to the national cemetery nearest the veteran's last place of residence in which burial space is available.

(Added Pub. L. 94–433, title III, § 304(a), Sept. 30, 1976, 90 Stat. 1377, § 908; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2308 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 908 of this title as this section and substituted ''2302 or 2307'' for ''902 or 907''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as an Effective Date of 1976 Amendment note under section 1101 of this title.

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

Sec.
2400. Establishment of National Cemetery Administration; composition of Administration.
2401. Advisory Committee on Cemeteries and Memorials.
2402. Persons eligible for interment in national cemeteries.
2403. Memorial areas.
2404. Administration.
2405. Disposition of inactive cemeteries.
2406. Acquisition of lands.
2407. Authority to accept and maintain suitable memorials.
2408. Aid to States for establishment, expansion, and improvement of veterans' cemeteries.
2409. Memorial areas in Arlington National Cemetery.
2410. Burial of cremated remains in Arlington National Cemetery.
2411. Prohibition against interment or memorialization in the National Cemetery Administration or Arlington National Cemetery of persons committing Federal or State capital crimes.
2412. Lease of land and buildings.

AMENDMENTS

2004—Pub. L. 108–454, title VI, § 602(b), Dec. 10, 2004, 118 Stat. 3624, added item 2412.

1998—Pub. L. 105–368, title IV, § 403(c)(4), (d)(1), Nov. 11, 1998, 112 Stat. 3338, 3339, substituted ''Administration; composition of Administration'' for ''System; composition of such system; appointment of director'' in item 2400 and ''Administration'' for ''System'' in item 2411.

1997—Pub. L. 105–116, § 1(b), Nov. 21, 1997, 111 Stat. 2382, added item 2411.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1000 to 1010 as 2400 to 2410, respectively.

1989—Pub. L. 101–237, title V, § 502(b), Dec. 18, 1989, 103 Stat. 2093, added item 1010.

1986—Pub. L. 99–576, title IV, § 413(b), Oct. 28, 1986, 100 Stat. 3284, added item 1009.

1978—Pub. L. 95–476, title II, § 202(b)(2), Oct. 18, 1978, 92 Stat. 1505, added item 1008.

§ 2400. Establishment of National Cemetery Administration; composition of Administration

(a) There shall be within the Department a National Cemetery Administration responsible for the interment of deceased servicemembers and veterans. The National Cemetery Administration shall be headed by the Under Secretary for Memorial Affairs, who shall perform such functions as may be assigned by the Secretary.

(b) The national cemeteries and other facilities under the control of the National Cemetery Administration shall consist of—

(1) national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1973;

(2) cemeteries under the jurisdiction of the Veterans' Administration on the date of enactment of this chapter; and

(3) any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1973, or later acquired or developed by the Secretary.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 75, § 1000; amended Pub. L. 99–576, title VII, § 701(52), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 100–527, § 13(i), Oct. 25, 1988, 102 Stat. 2644; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2400 and amended Pub. L. 102–83, §§ 4(a)(3), (4), 5(a), Aug. 6, 1991, 105 Stat. 404, 406; Pub. L. 105–368, title IV, § 403(c)(3), Nov. 11, 1998, 112 Stat. 3338.)

REFERENCES IN TEXT

The National Cemeteries Act of 1973, referred to in subsec. (b)(1), (3), is Pub. L. 93–43, June 18, 1973, 87 Stat. 75, as amended, which is classified principally to this chapter (§ 2400 et seq.). For complete classification of this Act to the Code, see section 1 of Pub. L. 93–43 set

out as a Short Title of 1973 Amendment note under section 101 of this title and Tables.

For national cemeteries transferred from the Department of the Army to the Veterans' Administration by the National Cemeteries Act of 1973, and any other cemetery, memorial, or monument transferred to the Veterans' Administration by the National Cemeteries Act of 1973, referred to in subsec. (b)(1), (3), see Transfer of Functions note set out under section 2404 of this title.

The date of enactment of this chapter, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 93–43, which was approved June 18, 1973.

AMENDMENTS

1998—Pub. L. 105–368, § 403(c)(3)(C), substituted ''Administration; composition of Administration'' for ''System; composition of such system; appointment of director'' in section catchline.

Subsec. (a). Pub. L. 105–368, § 403(c)(3)(A), in first sentence, substituted ''Administration responsible'' for ''System'' and, in second sentence, substituted ''The National Cemetery Administration shall be headed by the Under Secretary for Memorial Affairs'' for ''Such system shall be headed by the Director of the National Cemetery System''.

Subsec. (b). Pub. L. 105–368, § 403(c)(3)(B), substituted ''national cemeteries and other facilities under the control of the National Cemetery Administration'' for ''National Cemetery System'' in introductory provisions.

1991—Pub. L. 102–83, § 5(a), renumbered section 1000 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1989—Subsec. (b)(3). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1988—Subsec. (a). Pub. L. 100–527 substituted ''Such system shall be headed by the Director of the National Cemetery System, who shall perform such functions as may be assigned by the Secretary'' for ''The Administrator may appoint a Director, National Cemetery System, who shall perform such functions as may be assigned by the Administrator''.

1986—Subsec. (a). Pub. L. 99–576 substituted ''servicemembers'' for ''servicemen'' and ''The Administrator'' for ''To assist him in carrying out his responsibilities in administering the cemeteries within the System, the Administrator''.

CHANGE OF NAME

Pub. L. 105–368, title IV, § 403(a)(1), Nov. 11, 1998, 112 Stat. 3337, provided that: ''The National Cemetery System of the Department of Veterans Affairs shall hereafter be known and designated as the National Cemetery Administration. The position of Director of the National Cemetery System is hereby redesignated as Under Secretary of Veterans Affairs for Memorial Affairs.''

Pub. L. 105–368, title IV, § 403(d), Nov. 11, 1998, 112 Stat. 3339, provided that:

''(1) Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Cemetery System shall be deemed to be a reference to the National Cemetery Administration.

''(2) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Director of the National Cemetery System shall be deemed to be a reference to the Under Secretary of Veterans Affairs for Memorial Affairs.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–527 effective Mar. 15, 1989, see section 18(a) of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of this title.

EFFECTIVE DATE

Section 10(a) of Pub. L. 93–43 provided that: ''The first section [set out as a Short Title of 1973 Amendment note under section 101 of this title] and sections 2 [enacting this chapter and amending section 5316 of Title 5, Government Organization and Employees], 3 [set out as a note under section 2404 of this title], 4 [enacting section 218 and repealing section 625 of this title], and 8 [amending section 3505 [now 6105] of this title] of this Act shall take effect on the date of enactment of this Act [June 18, 1973].''

SHORT TITLE

For short title of Pub. L. 93–43, June 18, 1973, 87 Stat. 75, which enacted this chapter, as the ''National Cemeteries Act of 1973'', see section 1 of Pub. L. 93–43 set out as a Short Title of 1973 Amendment note under section 101 of this title.

NATIONAL CEMETERY EXPANSION

Pub. L. 108–109, Nov. 11, 2003, 117 Stat. 1322, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'National Cemetery Expansion Act of 2003'.

''SEC. 2. ESTABLISHMENT OF NEW NATIONAL CEMETERIES.

''(a) ESTABLISHMENT.—Not later than 4 years after the date of the enactment of this Act [Nov. 11, 2003], the Secretary of Veterans Affairs, in accordance with chapter 24 of title 38, United States Code, shall establish six new national cemeteries. The new cemeteries shall be located in the following locations (those locations having been determined by the Secretary of Veterans Affairs to be the most appropriate locations for new national cemeteries):

''(1) Southeastern Pennsylvania.

''(2) The Birmingham, Alabama, area.

''(3) The Jacksonville, Florida, area.

''(4) The Bakersfield, California, area.

''(5) The Greenville/Columbia, South Carolina, area.

''(6) The Sarasota County, Florida, area.

''(b) FUNDS.—Amounts appropriated for the Department of Veterans Affairs for any fiscal year after fiscal year 2003 for Advance Planning shall be available for the purposes of subsection (a).

''(c) SITE SELECTION PROCESS.—In determining the specific sites for the new cemeteries required by subsection (a) within the locations specified in that subsection, the Secretary shall solicit the advice and views of representatives of State and local veterans organizations and other individuals as the Secretary considers appropriate.

''(d) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act [Nov. 11, 2003], the Secretary shall submit to Congress a report on the establishment of the national cemeteries required by subsection (a). The report shall—

''(1) set forth a schedule for the establishment of each such cemetery and an estimate of the costs associated with the establishment of each such cemetery; and

''(2) identify the amount of Advance Planning Funds obligated for purposes of this section as of the submission of the report.

''(e) ANNUAL REPORTS.—The Secretary shall submit to Congress an annual report on the implementation of this section until the establishment of all six cemeteries is completed and each such cemetery has opened. The Secretary shall include in each such annual report an update of the information provided under paragraphs (1) and (2) of subsection (d).

''(f) DEFINITION OF SOUTHEASTERN PENNSYLVANIA.—In this section, the term 'southeastern Pennsylvania' means the city of Philadelphia and Berks County, Bucks County, Chester County, Delaware County, Philadelphia County, and Montgomery County in the State of Pennsylvania.''

ESTABLISHMENT OF ADDITIONAL NATIONAL CEMETERIES

Pub. L. 106–117, title VI, § 611, Nov. 30, 1999, 113 Stat. 1580, provided that:

''(a) ESTABLISHMENT.—The Secretary [of Veterans Affairs] shall establish, in accordance with chapter 24 of title 38, United States Code, a national cemetery in each of the six areas in the United States that the Secretary determines to be most in need of such a cemetery to serve the needs of veterans and their families.

''(b) OBLIGATION OF FUNDS IN FISCAL YEAR 2000.—The Secretary shall obligate, from the advance planning fund in the Construction, Major Projects account appropriated to the Department [of Veterans Affairs] for fiscal year 2000, such amounts for costs that the Secretary estimates are required for the planning and commencement of the establishment of national cemeteries under this section.

''(c) REPORTS.—(1) Not later than 120 days after the date of the enactment of this Act [Nov. 30, 1999], the Secretary shall submit to Congress a report on the establishment of the national cemeteries under subsection (a). The report shall set forth the following:

''(A) The six areas of the United States determined by the Secretary to be most in need of the establishment of a new national cemetery.

''(B) A schedule for such establishment.

''(C) An estimate of the costs associated with such establishment.

''(D) The amount obligated from the advance planning fund under subsection (b).

''(2) Not later than one year after the date on which the report described in paragraph (1) is submitted, and annually thereafter until the establishment of the national cemeteries under subsection (a) is complete, the Secretary shall submit to Congress a report that updates the information included in the report described in paragraph (1).''

REIMBURSEMENT OF ACCOUNT

Pub. L. 105–276, title I, Oct. 21, 1998, 112 Stat. 2466, provided in part: ''That during fiscal year 1999, or in subsequent fiscal years, the 'Construction, major projects' account shall be reimbursed, in the amount transferred, from other funds as they become part of the Pershing Hall Revolving Fund.''

TRANSFER OF PERSHING HALL TO DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 102–86, title IV, § 403, Aug. 14, 1991, 105 Stat. 422, as amended by Pub. L. 103–79, § 4, Aug. 13, 1993, 107 Stat. 772; Pub. L. 103–446, title XII, § 1202(c), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 107–217, § 3(*o*), Aug. 21, 2002, 116 Stat. 1303; Pub. L. 107–330, title III, § 308(i), Dec. 6, 2002, 116 Stat. 2829, provided that:

''(a) IN GENERAL.—Pershing Hall, an existing memorial in Paris, France, owned by the United States, together with the personal property of such memorial, is hereby placed under the jurisdiction, custody, and control of the Department of Veterans Affairs so that the memorial to the commander-in-chief, officers, men, and auxiliary services of the American Expeditionary Forces in France during World War I may be continued in an appropriate manner and financial support be provided therefor.

''(b) ADMINISTRATION.—(1)(A) The Secretary of Veterans Affairs shall administer, operate, develop, and improve Pershing Hall and its site in such manner as the Secretary determines is in the best interests of the United States, which may include use of Pershing Hall to meet the needs of veterans. To meet such needs, the Secretary may establish and operate a regional or other office to disseminate information, respond to inquiries, and otherwise assist veterans and their families in obtaining veterans' benefits.

''(B) To carry out the purposes of this section, the Secretary may enter into agreements authorized by subsection (c) to fund the operation of the memorial and projects authorized by subsection (d)(6).

''(2)(A) The Secretary shall, after consultation with the American Battle Monuments Commission, provide for a portion of Pershing Hall to be specifically dedicated, with appropriate exhibitions and monuments, to the memory of the commander-in-chief, officers, men, and auxiliary services of the American Expeditionary Forces in France during World War I.

''(B) The establishment and continuing supervision of the memorial that is dedicated pursuant to subparagraph (A) shall be carried out by the American Battle Monuments Commission.

''(3) To the extent that funds are available in the Pershing Hall Revolving Fund established by subsection (d), the Secretary may incur such expenses with respect to Pershing Hall as the Secretary determines necessary or appropriate.

''(4) The Secretary of Veterans Affairs may provide the allowances and benefits described in section 707 of title 38, United States Code, to personnel of the Department of Veterans Affairs who are United States citizens and are assigned by the Secretary to Pershing Hall.

''(c) LEASES.—(1) The Secretary may enter into agreements as the Secretary determines necessary or appropriate for the operation, development, and improvement of Pershing Hall and its site, including the leasing of portions of the Hall for terms not to exceed 99 years in areas that are newly constructed or substantially rehabilitated and for not to exceed 20 years in other areas of the Hall.

''(2) Leases entered into by the Secretary under this subsection shall be for consideration in the form of cash or in-kind, or a combination of the two, as determined by the Secretary, which shall include the value of space leased back to the Secretary by the lessee, net of rent paid by the Secretary, and the present value of the residual interest of the Secretary at the end of the lease term.

''(d) FUND.—(1) There is hereby established the Pershing Hall Revolving Fund to be administered by the Secretary of Veterans Affairs.

''(2) There shall be transferred to the Pershing Hall Revolving Fund, at such time or times as the Secretary may determine without limitation as to year, amounts as determined by the Secretary, not to exceed $1,000,000 in total, from funds appropriated to the Department of Veterans Affairs for the construction of major projects. The account from which any such amount is transferred shall be reimbursed promptly from other funds as they become part of the Pershing Hall Revolving Fund.

''(3) The Pershing Hall Memorial Fund, established in the Treasury of the United States pursuant to section 2 of the Act of June 28, 1935 (Public Law 74–171; 49 Stat. 426) [former 36 U.S.C. 491], is hereby abolished and the corpus of the fund, including accrued interest, is transferred to the Pershing Hall Revolving Fund.

''(4) Funds received by the Secretary from operation of Pershing Hall or from any lease or other agreement with respect to Pershing Hall shall be deposited in the Pershing Hall Revolving Fund.

''(5) The Secretary of the Treasury shall invest any portion of the Revolving Fund that, as determined by the Secretary of Veterans Affairs, is not required to meet current expenses of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary of Veterans Affairs, has a maturity suitable for the Revolving Fund. The Secretary of the Treasury shall credit to the Revolving Fund the interest on, and the proceeds from the sale or redemption of, such obligations.

''(6)(A) Subject to subparagraphs (B) and (C), the Secretary of Veterans Affairs may expend not more than $100,000 from the Fund in any fiscal year upon projects, activities, and facilities determined by the Secretary to be in keeping with the mission of the Department.

''(B) An expenditure under subparagraph (A) may be made only from funds that will remain in the Fund in any fiscal year after payment of expenses incurred with respect to Pershing Hall for such fiscal year and only after the reimbursement of all amounts transferred to the Fund under subsection (d)(2) has been completed.

''(C) An expenditure authorized by subparagraph (A) shall be reported by the Secretary to the Congress no later than November 1 of each year for the fiscal year ending on the previous September 30.

''(e) WAIVER.—The Secretary may carry out the provisions of this section without regard to section 8122 of title 38, United States Code, subchapter II of chapter 5 of title 40, United States Code, sections 541 through 555 and 1302 of title 40, United States Code, or any other provision of law inconsistent with this section.''

[Section 3(*o*) of Pub. L. 107–217, which directed amendment of section 403(e) of Pub. L. 102–86, set out above, by substituting ''subchapter II of chapter 5 of title 40, sections 541–555 and 1302 of title 40'' for ''section 303b of title 40, sections 483 and 484 of title 40'', could not be executed.]

[Section 403 of Pub. L. 102–86, set out above, was classified to section 493 of former Title 36 prior to the general revision and enactment of Title 36, Patriotic and National Observances, Ceremonies, and Organizations, by Pub. L. 105–225, § 1, Aug. 12, 1998, 112 Stat. 1253.]

AUTHORITY TO ESTABLISH NATIONAL CEMETERIES

Section 414 of Pub. L. 99–576 provided that:

''(a) AUTHORITY.—The authority of the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] under chapter 24 of title 38, United States Code, to develop and acquire cemeteries as part of the National Cemetery System [now National Cemetery Administration] includes, but is not limited to, the authority to establish additional national cemeteries to serve the needs of veterans and their families in—

''(1) San Francisco, California;
''(2) Chicago, Illinois;
''(3) Cleveland, Ohio;
''(4) Pittsburgh, Pennsylvania;
''(5) Dallas/Fort Worth, Texas;
''(6) Miami, Florida;
''(7) Seattle, Washington;
''(8) Atlanta, Georgia;
''(9) Phoenix/Tucson, Arizona;
''(10) Birmingham, Alabama; and
''(11) any other State in which a national cemetery is not available for the burial of veterans.

''(b) LAND ACQUISITION.—The Administrator [now Secretary] may acquire land necessary for a cemetery authorized by subsection (a) of this section by donation, purchase, condemnation, exchange of lands in the United States public domain, or otherwise.''

§ 2401. Advisory Committee on Cemeteries and Memorials

There shall be appointed by the Secretary an Advisory Committee on Cemeteries and Memorials. The Secretary shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which the Secretary is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits. The Committee shall make periodic reports and recommendations to the Secretary and to Congress.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 75, § 1001; amended Pub. L. 99–576, title VII, § 701(53), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2401, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1001 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''he'' before ''is responsible''.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a periodic report to Congress on the Advisory Committee on Cemeteries and Memorials is listed on page 145), see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.

§ 2402. Persons eligible for interment in national cemeteries

Under such regulations as the Secretary may prescribe and subject to the provisions of section 6105 of this title, the remains of the following persons may be buried in any open national cemetery under the control of the National Cemetery Administration:

(1) Any veteran (which for the purposes of this chapter includes a person who died in the active military, naval, or air service).

(2) Any member of a Reserve component of the Armed Forces, and any member of the Army National Guard or the Air National Guard, whose death occurs under honorable conditions while such member is hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is performing active duty for training, inactive duty training, or undergoing that hospitalization or treatment at the expense of the United States.

(3) Any member of the Reserve Officers' Training Corps of the Army, Navy, or Air Force whose death occurs under honorable conditions while such member is—

(A) attending an authorized training camp or on an authorized practice cruise;

(B) performing authorized travel to or from that camp or cruise; or

(C) hospitalized or undergoing treatment, at the expense of the United States, for injury or disease contracted or incurred under honorable conditions while such member is—

(i) attending that camp or on that cruise;
(ii) performing that travel; or
(iii) undergoing that hospitalization or treatment at the expense of the United States.

(4) Any citizen of the United States who, during any war in which the United States is or has been engaged, served in the armed forces of any government allied with the United States during that war, and whose last such service terminated honorably.

(5) The spouse, surviving spouse (which for purposes of this chapter includes a surviving

spouse who had a subsequent remarriage), minor child (which for purposes of this chapter includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution), and, in the discretion of the Secretary, unmarried adult child of any of the persons listed in paragraphs (1) through (4) and paragraph (7).

(6) Such other persons or classes of persons as may be designated by the Secretary.

(7) Any person who at the time of death was entitled to retired pay under chapter 1223 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.

(8) Any individual whose service is described in subsection (a) or (b) of section 107 of this title if such individual at the time of death—

(A) was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and

(B) resided in the United States.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 75, § 1002; amended Pub. L. 99–576, title VII, § 701(54), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 2402, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–240, § 1, May 4, 1994, 108 Stat. 609; Pub. L. 103–446, title VIII, §§ 801, 802, Nov. 2, 1994, 108 Stat. 4675; Pub. L. 104–275, title II, § 211, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105–368, title IV, § 403(c)(5), Nov. 11, 1998, 112 Stat. 3338; Pub. L. 106–419, title III, § 331(a), title IV, § 404(a)(5), Nov. 1, 2000, 114 Stat. 1856, 1865; Pub. L. 108–183, title II, § 212(b), title V, § 502(a), Dec. 16, 2003, 117 Stat. 2658, 2667.)

AMENDMENTS

2003—Par. (5). Pub. L. 108–183, § 502(a), substituted ''(which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage)'' for ''(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)''.

Par. (8). Pub. L. 108–183, § 212(b), substituted ''subsection (a) or (b) of section 107'' for ''section 107(a)''.

2000—Par. (7). Pub. L. 106–419, § 404(a)(5), substituted ''chapter 1223 of title 10'' for ''chapter 67 of title 10''.

Par. (8). Pub. L. 106–419, § 331(a), added par. (8).

1998—Pub. L. 105–368 substituted ''under the control of the National Cemetery Administration'' for ''in the National Cemetery System'' in introductory provisions.

1996—Par. (5). Pub. L. 104–275 inserted ''(which for purposes of this chapter includes a child under 21 years of age, or under 23 years of age if pursuing a course of instruction at an approved educational institution)'' after ''minor child''.

1994—Par. (5). Pub. L. 103–446 inserted ''spouse,'' after ''The'' and ''(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)'' after ''surviving spouse''.

Pub. L. 103–240, § 1(b), inserted ''and paragraph (7)'' after ''paragraphs (1) through (4)''.

Par. (7). Pub. L. 103–240, § 1(a), added par. (7).

1991—Pub. L. 102–83 renumbered section 1002 of this title as this section.

Pub. L. 102–40 substituted ''6105'' for ''3505'' in introductory provisions.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Pars. (2), (3). Pub. L. 99–576, § 701(54)(A), substituted ''while such member'' for ''while he'' wherever appearing.

Par. (5). Pub. L. 99–576, § 701(54)(B), struck out ''wife, husband,'' before ''surviving spouse''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 212(b) of Pub. L. 108–183 applicable with respect to deaths occurring on or after Dec. 16, 2003, see section 212(c) of Pub. L. 108–183, set out as a note under section 107 of this title.

Pub. L. 108–183, title V, § 502(b), Dec. 16, 2003, 117 Stat. 2667, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to deaths occurring on or after January 1, 2000.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 331(a) of Pub. L. 106–419 applicable with respect to deaths occurring on or after Nov. 1, 2000, see section 331(c) of Pub. L. 106–419, set out as a note under section 107 of this title.

ELIGIBILITY OF FORMER PRISONERS OF WAR FOR BURIAL IN ARLINGTON NATIONAL CEMETERY

Pub. L. 103–160, div. A, title XI, § 1176, Nov. 30, 1993, 107 Stat. 1768, provided that:

''(a) ELIGIBILITY FOR BURIAL.—Former prisoners of war described in subsection (b) are eligible for burial in Arlington National Cemetery, Arlington, Virginia.

''(b) ELIGIBLE FORMER POWS.—A former prisoner of war referred to in subsection (a) is a former prisoner of war—

''(1) who dies on or after the date of the enactment of this Act [Nov. 30, 1993]; and

''(2) who, while a prisoner of war, served honorably in the active military, naval, or air service, as determined under regulations prescribed by the Secretary of the military department concerned.

''(c) SAVINGS PROVISION.—This section may not be construed to make ineligible for burial in Arlington National Cemetery a former prisoner of war who is eligible to be buried in that cemetery under another provision of law.

''(d) REGULATIONS.—This section shall be carried out under regulations prescribed by the Secretary of the Army. Those regulations may prescribe a minimum period of internment as a prisoner of war for purposes of eligibility under this section for burial in Arlington National Cemetery.

''(e) DEFINITIONS.—For purposes of this section:

''(1) The term 'former prisoner of war' has the meaning given such term in section 101(32) of title 38, United States Code.

''(2) The term 'active military, naval, or air service' has the meaning given such term in section 101(24) of such title.''

§ 2403. Memorial areas

(a) The Secretary shall set aside, when available, suitable areas in national cemeteries to honor the memory of members of the Armed Forces and veterans—

(1) who are missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

(b) Under regulations prescribed by the Secretary, group memorials may be placed to honor the memory of groups of individuals referred to

in subsection (a), and appropriate memorial headstones and markers may be placed to honor the memory of individuals referred to in subsection (a) and section 2306(b) of this title.

(c) All national and other veterans' cemeteries under the control of the National Cemetery Administration shall be considered national shrines as a tribute to our gallant dead and, notwithstanding the provisions of any other law, the Secretary is hereby authorized to permit appropriate officials to fly the flag of the United States of America at such cemeteries twenty-four hours each day.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 76, § 1003; amended Pub. L. 97–66, title VI, § 603(b), Oct. 17, 1981, 95 Stat. 1034; Pub. L. 97–295, § 4(34), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2403, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title IV, §§ 401(c), 403(c)(6), Nov. 11, 1998, 112 Stat. 3335, 3339.)

REFERENCES IN TEXT

For cemeteries under the control of the National Cemetery Administration, referred to in subsec. (c), see section 2400(b) of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–368, § 401(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Under regulations prescribed by the Secretary, appropriate memorials or markers shall be erected to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section."

Subsec. (c). Pub. L. 105–368, § 403(c)(6), substituted "under the control of the National Cemetery Administration" for "in the National Cemetery System created by this chapter".

1991—Pub. L. 102–83 renumbered section 1003 of this title as this section.

1989—Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1982—Subsec. (c). Pub. L. 97–295 substituted "chapter" for "Act" after "created by this".

1981—Subsec. (a). Pub. L. 97–66 substituted provisions relating to members of the Armed Forces and veterans, for provisions that related only to members of the Armed Forces, struck out provisions limiting the subsection to persons who died or were killed while serving in the Armed Forces, and inserted provisions relating to persons whose remains have not been recovered, whose remains were donated to science, or whose remains were cremated and the ashes scattered without interment of any portion of the ashes.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 applicable with respect to veterans dying before, on, or after Oct. 17, 1981, see section 701(b)(6) of Pub. L. 97–66, set out as a note under section 1114 of this title.

§ 2404. Administration

(a) The Secretary is authorized to make all rules and regulations which are necessary or appropriate to carry out the provisions of this chapter, and may designate those cemeteries which are considered to be national cemeteries.

(b) In conjunction with the development and administration of cemeteries for which the Secretary is responsible, the Secretary shall provide all necessary facilities including, as necessary, superintendents' lodges, chapels, crypts, mausoleums, and columbaria.

(c)(1) Subject to paragraph (2), each grave in a national cemetery shall be marked with an appropriate marker. Such marker shall bear the name of the person buried, the number of the grave, and such other information as the Secretary shall by regulation prescribe.

(2) The grave markers referred to in paragraph (1) shall be upright for interments that occur on or after January 1, 1987, except that—

(A) in the case of any cemetery scheduled to be closed by September 30, 1991, as indicated in the documents submitted by the Administrator of Veterans' Affairs to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget for fiscal year 1987, the Secretary may provide for flat grave markers;

(B) in the case of any cemetery with a section which has flat markers on October 28, 1986, the Secretary may continue to provide for flat grave markers in such section;

(C) in the case of any cemetery located on the grounds of or adjacent to a Department health-care facility, the Secretary may provide for flat grave markers; and

(D) in the case of grave sites of cremated remains that are interred in the ground, the Secretary may provide for flat grave markers.

(d) There shall be kept in each national cemetery, and at the main office of the Department, a register of burials in each cemetery setting forth the name of each person buried in the cemetery, the number of the grave in which the veteran is buried, and such other information as the Secretary by regulation may prescribe.

(e) In carrying out the Secretary's responsibilities under this chapter, the Secretary may contract with responsible persons, firms, or corporations for the care and maintenance of such cemeteries under the Secretary's jurisdiction as the Secretary shall choose, under such terms and conditions as the Secretary may prescribe.

(f)(1) The Secretary is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Secretary in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

(2) The Secretary may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Secretary determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.

(g) Notwithstanding any other provision of law, the Secretary may at such time as the Secretary deems desirable, relinquish to the State in which any cemetery, monument, or memorial under the Secretary's jurisdiction is located, such portion of legislative jurisdiction over the

lands involved as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of jurisdiction under the authority of this subsection may be made by filing with the Governor of the State involved a notice of such relinquishment and shall take effect upon acceptance thereof by the State in such manner as its laws may prescribe.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 76, § 1004; amended Pub. L. 99–576, title IV, § 411, title VII, § 701(55), Oct. 28, 1986, 100 Stat. 3283, 3295; Pub. L. 100–322, title III, §§ 341(a), 342, May 20, 1988, 102 Stat. 539, 540; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–54, § 14(b)(21), June 13, 1991, 105 Stat. 284; renumbered § 2404 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(7), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1004 of this title as this section.

Subsec. (c)(2)(A). Pub. L. 102–83, § 4(b)(7), substituted ''Administrator of Veterans' Affairs'' for ''Secretary''.

Subsec. (c)(2)(B). Pub. L. 102–54 substituted ''October 28, 1986'' for ''the date of the enactment of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986''.

Subsec. (c)(2)(C). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1989—Pub. L. 101–237 substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

1988—Subsec. (c)(2)(C), (D). Pub. L. 100–322, § 341(a), added subpars. (C) and (D).

Subsec. (f). Pub. L. 100–322, § 342, designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (b). Pub. L. 99–576, § 701(55)(B), substituted ''the Administrator'' for ''he'' before ''is responsible''.

Subsec. (c). Pub. L. 99–576, § 411, designated existing provisions as par. (1), substituted ''Subject to paragraph (2), each'' for ''Each'', and added par. (2).

Subsec. (d). Pub. L. 99–576, § 701(55)(A), substituted ''the veteran'' for ''he''.

Subsecs. (e), (g). Pub. L. 99–576, § 701(55)(B), (C), substituted ''the Administrator'' and ''the Administrator's'' for ''he'' and ''his'', respectively, wherever appearing.

TRANSFER OF FUNCTIONS

Section 6 of Pub. L. 93–43 provided that:

''[*Jurisdiction*] (a)(1) There are hereby transferred from the Secretary of the Army to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, (A) all national cemeteries (except the cemetery at the United States Soldiers' and Airmen's Home and Arlington National Cemetery), and (B) any other cemetery (including burial plots), memorial, or monument under the jurisdiction of the Secretary of the Army immediately preceding the effective date of this section [see note hereunder] (except the cemetery located at the United States Military Academy at West Point) which the President determines would be appropriate in carrying out the purposes of this Act [see Tables for classification].

''(2) There are hereby transferred from the Secretary of the Navy and the Secretary of the Air Force to the Administrator of Veterans' Affairs all jurisdiction over, and responsibility for, any cemetery (including burial plots), memorial, or monument under the jurisdiction of either Secretary immediately preceding the effective date of this section [see note hereunder] (except those cemeteries located at the United States Naval Academy at Annapolis, the United States Naval Home Cemetery at Philadelphia, and the United States Air Force Academy at Colorado Springs) which the President determines would be appropriate in carrying out the purposes of this Act [see Tables for classification].

''[*Personnel; property; records; and funds*] (b) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available to, or under the jurisdiction of, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, in connection with functions transferred by this Act, as determined by the Director of the Office of Management and Budget, are transferred to the Administrator of Veterans' Affairs.

''[*Savings provision; offenses, penalties and forfeitures*] (c) All offenses committed and all penalties an forfeitures incurred under any of the provisions of law amended or repealed by this Act may be prosecuted and punished in the same manner and with the same effect as if such amendments or repeals had not been made.

''[*Same; rules; regulations, permits, and other privileges*] (d) All rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to the cemeteries, memorials, and monuments transferred to the Veterans' Administration by this Act, unless contrary to the provisions of such Act, shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator of Veterans' Affairs, by any court of competent jurisdiction, or by operation of law.

''[*Abatement of proceedings; proceedings against United States or officer of Veterans' Administration; judicial orders; continuation of suits by Administrator*] (e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an official of the Department of the Army, the Department of the Navy, or the Department of the Air Force with respect to functions transferred under subsection (a) or (c) of this section shall abate by reason of the enactment of this section. No cause of action by or against any such department with respect to functions transferred under such subsection (a) or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this section. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such officer of the Veterans' Administration as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, upon its own motion or that of any party, enter an order which will give effect to the provisions of this subsection. If before the date this section takes effect [see note hereunder], any such department, or officer thereof in his official capacity, is a party to a suit with respect to any function so transferred, such suit shall be continued by the Administrator of Veterans' Affairs.''

[Section 6 of Pub. L. 93–43 effective Sept. 1, 1973, or such earlier date as the President may prescribe and publish in the Federal Register, see section 10(c) of Pub. L. 93–43, set out as an Effective Date note under section 2306 of this title.]

[The United States Soldiers' and Airmen's Home and the United States Naval Home were incorporated into the Armed Forces Retirement Home by section 411 of Title 24, Hospitals and Asylums.]

USE OF FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO

Pub. L. 106–117, title VI, § 612, Nov. 30, 1999, 113 Stat. 1580, provided that: ''Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary [of Veterans Affairs] may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.''

INDEPENDENT STUDY ON IMPROVEMENTS TO VETERANS' CEMETERIES

Pub. L. 106–117, title VI, § 613, Nov. 30, 1999, 113 Stat. 1581, provided that:

''(a) STUDY.—Not later than 180 days after the date of the enactment of this Act [Nov. 30, 1999], the Secretary [of Veterans Affairs] shall enter into a contract with one or more qualified organizations to conduct a study of national cemeteries described in subsection (b). For purposes of this section, an entity of Federal, State, or local government is not a qualified organization.

''(b) MATTERS STUDIED.—(1) The study conducted pursuant to the contract entered into under subsection (a) shall include an assessment of each of the following:

''(A) The one-time repairs required at each national cemetery under the jurisdiction of the National Cemetery Administration of the Department of Veterans Affairs to ensure a dignified and respectful setting appropriate to such cemetery, taking into account the variety of age, climate, and burial options at individual national cemeteries.

''(B) The feasibility of making standards of appearance of active national cemeteries, and the feasibility of making standards of appearance of closed national cemeteries, commensurate with standards of appearance of the finest cemeteries in the world.

''(C) The number of additional national cemeteries that will be required for the interment and memorialization in such cemeteries of individuals qualified under chapter 24 of title 38, United States Code, who die after 2005.

''(D) The advantages and disadvantages of the use by the National Cemetery Administration of flat grave markers and upright grave markers.

''(E) The current condition of flat grave marker sections at each of the national cemeteries.

''(2) In presenting the assessment of additional national cemeteries required under paragraph (1)(C), the report shall identify by five-year period, beginning with 2005 and ending with 2020, the following:

''(A) The number of additional national cemeteries required during each such five-year period.

''(B) With respect to each such five-year period, the areas in the United States with the greatest concentration of veterans whose needs are not served by national cemeteries or State veterans' cemeteries.

''(c) REPORT.—(1) Not later than one year after the date on which a qualified organization enters into a contract under subsection (a), the organization shall submit to the Secretary a report setting forth the results of the study conducted and conclusions of the organization with respect to such results.

''(2) Not later than 120 days after the date on which a report is submitted under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a copy of the report, together with any comments on the report that the Secretary considers appropriate.''

GRAVE MARKERS IN CERTAIN LOCATIONS

Pub. L. 103–446, title VIII, § 804, Nov. 2, 1994, 108 Stat. 4675, provided that: ''Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon.''

Section 11 of Pub. L. 102–54, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary may provide for flat grave markers in that section of the Florida National Cemetery in which preplaced grave liners were installed before July 30, 1988.''

Section 341(b) of Pub. L. 100–322, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''Notwithstanding section 2404(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.''

FUNCTIONS, POWERS, AND DUTIES OF SECRETARIES UNAFFECTED

Repeal of sections 271 to 276, 278 to 279d, 281 to 282, 286 to 290, and 296 of Title 24, Hospitals and Asylums, and enactment of provisions set out as notes under sections 271 to 276 of Title 24 without effect upon functions, powers, and duties of secretaries of the military departments with respect to cemeteries, memorials, or monuments under the jurisdiction of the secretary concerned to which the transfer provisions of section 6(a) of Pub. L. 93–43, set out as a note above, do not apply, see section 7(b) of Pub. L. 93–43, set out as a note under sections 271 to 276 of Title 24.

STUDIES; RECOMMENDATIONS TO CONGRESS

Section 3 of Pub. L. 93–43 authorized the Administrator to conduct a comprehensive study concerning the criteria governing the development and operation of the National Cemetery System, including the concept of regional cemeteries, the relationship of the National Cemetery System to other burial benefits provided by Federal and State Governments to servicemen and veterans, steps taken to conform the existing system to the recommended criteria, private burial and funeral costs in the United States, current headstone and marker programs, and the marketing and sales practices of non-Federal cemeteries and interment facilities, and to submit his recommendations within twelve months after the convening of the first session of the Ninety-third Congress and also authorized the Administrator, in conjunction with the Secretary of Defense, to conduct a comprehensive study concerning the advisability of including Arlington National Cemetery within the National Cemetery System, the appropriateness of maintaining the present eligibility requirements for burial at Arlington National Cemetery and the advisability of establishing another national cemetery, and to submit the results of their joint recommendations within twelve months after the convening of the first session of the Ninety-third Congress.

§ 2405. Disposition of inactive cemeteries

(a) The Secretary may transfer, with the consent of the agency concerned, any inactive cemetery, burial plot, memorial, or monument within the Secretary's control to the Department of the Interior for maintenance as a national monument or park, or to any other agency of the Government. Any cemetery transferred to the Department of the Interior shall be administered by the Secretary of the Interior as a part of the National Park System, and funds appropriated to the Secretary of the Interior for such system shall be available for the management and operation of such cemetery.

(b) The Secretary may also transfer and convey all right, title, and interest of the United States in or to any inactive cemetery or burial plot, or portion thereon, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located, but in the event the grantee shall cease or fail to care for and maintain the cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Secretary, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States.

(c) If a cemetery not under the control of the National Cemetery Administration has been or is to be discontinued, the Secretary may provide

for the removal of remains from that cemetery to any cemetery under the control of such Administration. The Secretary may also provide for the removal of the remains of any veteran from a place of temporary interment, or from an abandoned grave or cemetery, to a national cemetery.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 77, § 1005; amended Pub. L. 99–576, title VII, § 701(56), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101–237, title III, § 313(b)(1), (4), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2405, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title IV, § 403(c)(7), Nov. 11, 1998, 112 Stat. 3339.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–368, in first sentence, substituted ''under the control of the National Cemetery Administration'' for ''within the National Cemetery System'' and ''under the control of such Administration'' for ''within such System''.

1991—Pub. L. 102–83 renumbered section 1005 of this title as this section.

1989—Subsec. (a). Pub. L. 101–237, § 313(b)(4), inserted ''of the Interior'' after ''funds appropriated to the Secretary''.

Pub. L. 101–237, § 313(b)(1), substituted ''Secretary may transfer'' for ''Administrator may transfer'' and ''Secretary's'' for ''Administrator's''.

Subsecs. (b), (c). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (a). Pub. L. 99–576, § 701(56)(A), substituted ''the Administrator's'' for ''his''.

Subsec. (c). Pub. L. 99–576, § 701(56)(B), substituted ''The Administrator'' for ''He''.

§ 2406. Acquisition of lands

As additional lands are needed for national cemeteries, they may be acquired by the Secretary by purchase, gift (including donations from States or political subdivisions thereof), condemnation, transfer from other Federal agencies, exchange, or otherwise, as the Secretary determines to be in the best interest of the United States.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 78, § 1006; amended Pub. L. 99–576, title VII, § 701(57), Oct. 28, 1986, 100 Stat. 3295; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2406, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 108–454, title VI, § 603, Dec. 10, 2004, 118 Stat. 3624.)

AMENDMENTS

2004—Pub. L. 108—454 inserted ''exchange,'' after ''agencies,''.

1991—Pub. L. 102–83 renumbered section 1006 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''he''.

§ 2407. Authority to accept and maintain suitable memorials

Subject to such restrictions as the Secretary may prescribe, the Secretary may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery. The Secretary may make land available for this purpose, and may furnish such care and maintenance as the Secretary deems necessary.

(Added Pub. L. 93–43, § 2(a), June 18, 1973, 87 Stat. 78, § 1007; amended Pub. L. 99–576, title VII, § 701(58), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2407, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1007 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''he'' in two places and ''The Administrator'' for ''He''.

§ 2408. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a) Subject to subsection (b) of this section, the Secretary may make grants to any State to assist such State in establishing, expanding, or improving veterans' cemeteries owned by such State. Any such grant may be made only upon submission of an application to the Secretary in such form and manner, and containing such information, as the Secretary may require.

(b) Grants under this section shall be subject to the following conditions:

(1) The amount of a grant under this section may not exceed—

(A) in the case of the establishment of a new cemetery, the sum of: (i) the cost of improvements to be made on the land to be converted into a cemetery; and (ii) the cost of initial equipment necessary to operate the cemetery; and

(B) in the case of the expansion or improvement of an existing cemetery, the sum of: (i) the cost of improvements to be made on any land to be added to the cemetery; and (ii) the cost of any improvements to be made to the existing cemetery.

(2) If the amount of a grant under this section is less than the amount of costs referred to in subparagraph (A) or (B) of paragraph (1), the State receiving the grant shall contribute the excess of such costs over the grant.

(3) If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

(c)(1) In addition to the conditions specified in subsection (b) of this section, any grant to a State under this section to assist such State in establishing a veterans' cemetery shall be made on the condition that such cemetery shall conform to such standards and guidelines relating to site selection, planning, and construction as the Secretary may by regulation prescribe. In

prescribing regulations for the purposes of the preceding sentence, the Secretary shall take into account the standards and guidelines for site selection, planning, and construction that are applicable to cemeteries under the control of the National Cemetery Administration, including those provided in subsections (b), (c), and (d) of section 2404 of this title.

(2) The Secretary may by regulation prescribe such additional terms and conditions for grants under this section as the Secretary considers appropriate.

(d)(1) In addition to the conditions specified in subsections (b) and (c), any grant made to a State under this section to assist such State in establishing, expanding, or improving a veterans' cemetery shall be made subject to the condition specified in paragraph (2).

(2) For purposes of paragraph (1), the condition described in this paragraph is that, after the date of the receipt of the grant, such State prohibit the interment or memorialization in that cemetery of a person described in section 2411(b) of this title, subject to the receipt of notice described in subsection (a)(2) of such section, except that for purposes of this subsection—

(A) such notice shall be furnished to an appropriate official of such State; and

(B) a finding described in subsection (b)(3) of such section shall be made by an appropriate official of such State.

(e) Amounts appropriated to carry out this section shall remain available until expended. If all funds from a grant under this section have not been utilized by a State for the purpose for which the grant was made within three years after such grant is made, the United States shall be entitled to recover any such unused grant funds from such State.

(Added Pub. L. 95–476, title II, § 202(b)(1), Oct. 18, 1978, 92 Stat. 1504, § 1008; amended Pub. L. 98–223, title II, § 202, Mar. 2, 1984, 98 Stat. 41; Pub. L. 100–322, title III, § 343, May 20, 1988, 102 Stat. 540; Pub. L. 100–687, div. B, title XVI, § 1601, Nov. 18, 1988, 102 Stat. 4137; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2408 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VIII, § 803, Nov. 2, 1994, 108 Stat. 4675; Pub. L. 105–116, § 2, Nov. 21, 1997, 111 Stat. 2382; Pub. L. 105–368, title IV, §§ 403(c)(8), 404(a)(1), (b), (c), title X, § 1005(b)(5), Nov. 11, 1998, 112 Stat. 3339, 3365; Pub. L. 108–183, title V, § 503, Dec. 16, 2003, 117 Stat. 2667.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, § 503(a), struck out par. (1) designation before "Subject to" and struck out par. (2) which authorized amounts for fiscal years 1999 through 2004 for grants.

Subsec. (d)(1). Pub. L. 108–183, § 503(c), struck out "on or after November 21, 1997," after "grant made".

Subsec. (e). Pub. L. 108–183, § 503(b), substituted "Amounts appropriated to carry out this section" for "Sums appropriated under subsection (a) of this section".

1998—Subsec. (a)(2). Pub. L. 105–368, § 404(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "There is authorized to be appropriated $5,000,000 for fiscal year 1980 and for each of the four succeeding fiscal years, and such sums as may be necessary for fiscal year 1985 and for each of the fourteen succeeding fiscal years, for the purpose of making grants under paragraph (1) of this subsection."

Subsec. (b)(1), (2). Pub. L. 105–368, § 404(a)(1), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

"(1) The amount of any grant under this section may not exceed an amount equal to 50 percent of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

"(2) If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph (1) of this subsection, but the value of such land may not be used for more than an amount equal to 50 percent of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section."

Subsec. (c)(1). Pub. L. 105–368, § 403(c)(8), substituted "under the control of the National Cemetery Administration" for "in the National Cemetery System".

Subsec. (d)(1). Pub. L. 105–368, § 1005(b)(5), substituted "November 21, 1997," for "the date of the enactment of this subsection" and "subject to the condition specified in" for "on the condition described in".

Subsec. (e). Pub. L. 105–368, § 401(b), substituted "shall remain available until expended" for "shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated" in first sentence.

1997—Subsecs. (d), (e). Pub. L. 105–116 added subsec. (d) and redesignated former subsec. (d) as (e).

1994—Subsec. (a)(2). Pub. L. 103–446 substituted "fourteen" for "nine".

1991—Pub. L. 102–83, § 5(a), renumbered section 1008 of this title as this section.

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted "2404" for "1004".

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

1988—Subsec. (a)(2). Pub. L. 100–687 substituted "nine" for second reference to "four".

Subsec. (b)(1). Pub. L. 100–322, § 343(1)–(3), redesignated par. (2) as (1), substituted "percent" for "per centum", and struck out former par. (1) which read as follows: "No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year."

Subsec. (b)(2). Pub. L. 100–322, § 343(2)–(4), redesignated par. (3) as (2) and substituted "percent" for "per centum" and "paragraph (1)" for "paragraph (2)". Former par. (2) redesignated (1).

Subsec. (b)(3), (4). Pub. L. 100–322, § 343(2), redesignated par. (4) as (3). Former par. (3) redesignated (2).

1984—Subsec. (a)(2). Pub. L. 98–223 inserted ", and such sums as may be necessary for fiscal year 1985 and for each of the four succeeding fiscal years," after "fiscal years".

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title IV, § 404(a)(2), Nov. 11, 1998, 112 Stat. 3339, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to grants under section 2408 of title 38, United States Code, made after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE

Section effective Oct. 18, 1978, see section 205(a) of Pub. L. 95–476, set out as an Effective Date of 1978 Amendment note under section 2303 of this title.

§ 2409. Memorial areas in Arlington National Cemetery

(a) The Secretary of the Army may set aside, when available, a suitable area or areas in Ar-

lington National Cemetery, Virginia, to honor the memory of members of the Armed Forces and veterans—

(1) who are missing in action;

(2) whose remains have not been recovered or identified;

(3) whose remains were buried at sea, whether by the member's or veteran's own choice or otherwise;

(4) whose remains were donated to science; or

(5) whose remains were cremated and whose ashes were scattered without interment of any portion of the ashes.

(b) Under regulations prescribed by the Secretary of the Army, appropriate memorials or markers may be erected in Arlington National Cemetery to honor the memory of those individuals, or group of individuals, referred to in subsection (a) of this section.

(Added Pub. L. 99–576, title IV, § 413(a), Oct. 28, 1986, 100 Stat. 3284, § 1009; amended Pub. L. 101–237, title III, § 313(b)(5), Dec. 18, 1989, 103 Stat. 2077; renumbered § 2409, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1009 of this title as this section.

1989—Subsec. (b). Pub. L. 101–237 inserted ''of the Army'' after ''Secretary''.

COLUMBIA ORBITER MEMORIAL

Pub. L. 108–11, title III, Apr. 16, 2003, 117 Stat. 603, provided that:

''SEC. 301. SHORT TITLE.

''This title may be cited as the 'Columbia Orbiter Memorial Act'.

''SEC. 302. CONSTRUCTION OF MEMORIAL TO CREW OF COLUMBIA ORBITER AT ARLINGTON NATIONAL CEMETERY.

''(a) CONSTRUCTION REQUIRED.—The Secretary of the Army shall, in consultation with the Administrator of the National Aeronautics and Space Administration, construct at an appropriate place in Arlington National Cemetery, Virginia, a memorial marker honoring the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS–107.

''(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by title II of the Department of Defense Appropriations Act, 2003 (Public Law 107–248) under the heading 'Operation and Maintenance, Army' [116 Stat. 1521], $500,000 shall be available for the construction of the memorial marker required by subsection (a).

''SEC. 303. DONATIONS FOR MEMORIAL FOR CREW OF COLUMBIA ORBITER.

''(a) AUTHORITY TO ACCEPT DONATIONS.—The Administrator of the National Aeronautics and Space Administration may accept gifts and donations of services, money, and property (including personal, tangible, or intangible property) for the purpose of an appropriate memorial or monument to the seven members of the crew of the Columbia Orbiter who died on February 1, 2003, over the State of Texas during the landing of space shuttle mission STS–107, whether such memorial or monument is constructed by the Administrator or is the memorial marker required by section 302.

''(b) TRANSFER.—(1) The Administrator may transfer to the Secretary of the Army any services, money, or property accepted by the Administrator under subsection (a) for the purpose of the construction of the memorial marker required by section 302.

''(2) Any moneys transferred to the Secretary under paragraph (1) shall be merged with amounts in the account referred to in subsection (b) of section 302, and shall be available for the purpose referred to in that subsection.

''(c) EXPIRATION OF AUTHORITY.—The authority of the Administrator to accept gifts and donations under subsection (a) shall expire 5 years after the date of the enactment of this Act [Apr. 16, 2003].''

AUTHORIZATION OF PLACEMENT OF A MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE

Pub. L. 107–330, title II, § 204, Dec. 6, 2002, 116 Stat. 2824, provided that: ''The Secretary of the Army is authorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.''

§ 2410. Burial of cremated remains in Arlington National Cemetery

(a) The Secretary of the Army shall designate an area of appropriate size within Arlington National Cemetery for the unmarked interment, in accordance with such regulations as the Secretary may prescribe, of the ashes of persons eligible for interment in Arlington National Cemetery whose remains were cremated. Such area shall be an area not suitable for the burial of casketed remains.

(b) The Secretary of each military department shall make available appropriate forms on which those members of the Armed Forces who so desire may indicate their desire to be buried within the area to be designated under subsection (a).

(Added Pub. L. 101–237, title V, § 502(a), Dec. 18, 1989, 103 Stat. 2093, § 1010; amended Pub. L. 102–54, § 14(b)(22), June 13, 1991, 105 Stat. 284; renumbered § 2410, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1010 of this title as this section.

Subsec. (b). Pub. L. 102–54 substituted ''each military department'' for ''the military departments''.

§ 2411. Prohibition against interment or memorialization in the National Cemetery Administration or Arlington National Cemetery of persons committing Federal or State capital crimes

(a)(1) In the case of a person described in subsection (b), the appropriate Federal official may not—

(A) inter the remains of such person in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

(B) honor the memory of such person in a memorial area in a cemetery in the National Cemetery Administration (described in section 2403(a) of this title) or in such an area in Arlington National Cemetery (described in section 2409(a) of this title).

(2) In the case of a person described in subsection (b)(1) or (b)(2), the prohibition under paragraph (1) shall not apply unless written notice of a conviction referred to in subsection (b)(1) or (b)(2), as the case may be, is received by

the appropriate Federal official before such official approves an application for the interment or memorialization of such person. Such written notice shall be furnished to such official by the Attorney General, in the case of a Federal capital crime, or by an appropriate State official, in the case of a State capital crime.

(b) A person referred to in subsection (a) is any of the following:

(1) A person who has been convicted of a Federal capital crime for which the person was sentenced to death or life imprisonment.

(2) A person who has been convicted of a State capital crime for which the person was sentenced to death or life imprisonment without parole.

(3) A person who—

(A) is found (as provided in subsection (c)) to have committed a Federal capital crime or a State capital crime, but

(B) has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution.

(c) A finding under subsection (b)(3) shall be made by the appropriate Federal official. Any such finding may only be made based upon a showing of clear and convincing evidence, after an opportunity for a hearing in a manner prescribed by the appropriate Federal official.

(d) For purposes of this section:

(1) The term ''Federal capital crime'' means an offense under Federal law for which the death penalty or life imprisonment may be imposed.

(2) The term ''State capital crime'' means, under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which the death penalty or life imprisonment without parole may be imposed.

(3) The term ''appropriate Federal official'' means—

(A) the Secretary, in the case of the National Cemetery Administration; and

(B) the Secretary of the Army, in the case of Arlington National Cemetery.

(Added Pub. L. 105–116, § 1(a), Nov. 21, 1997, 111 Stat. 2381; amended Pub. L. 105–368, title IV, § 403(d)(1), Nov. 11, 1998, 112 Stat. 3339; Pub. L. 107–330, title II, § 202, Dec. 6, 2002, 116 Stat. 2824.)

AMENDMENTS

2002—Subsec. (a)(2). Pub. L. 107–330 substituted ''In the case of a person described in subsection (b)(1) or (b)(2), the prohibition'' for ''The prohibition'' and ''referred to in subsection (b)(1) or (b)(2), as the case may be,'' for ''or finding under subsection (b)''.

1998—Pub. L. 105–368, § 403(d)(1), substituted ''Administration'' for ''System'' in section catchline.

Subsecs. (a)(1)(A), (B), (d)(3)(A). Pub. L. 105–368, § 403(d)(1), substituted ''Administration'' for ''System''.

EFFECTIVE DATE

Section 1(c) of Pub. L. 105–116 provided that: ''Section 2411 of title 38, United States Code, as added by subsection (a), shall apply with respect to applications for interment or memorialization made on or after the date of the enactment of this Act [Nov. 21, 1997].''

§ 2412. Lease of land and buildings

(a) LEASE AUTHORIZED.—The Secretary may lease any undeveloped land and unused or underutilized buildings, or parts or parcels thereof, belonging to the United States and part of the National Cemetery Administration.

(b) TERM.—The term of a lease under subsection (a) may not exceed 10 years.

(c) LEASE TO PUBLIC OR NONPROFIT ORGANIZATIONS.—(1) A lease under subsection (a) to any public or nonprofit organization may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5).

(2) Notwithstanding section 1302 of title 40 or any other provision of law, a lease under subsection (a) to any public or nonprofit organization may provide for the maintenance, protection, or restoration of the leased property by the lessee, as a part or all of the consideration for the lease.

(d) NOTICE.—Before entering into a lease under subsection (a), the Secretary shall give appropriate public notice of the intention of the Secretary to enter into the lease in a newspaper of general circulation in the community in which the lands or buildings concerned are located.

(e) NATIONAL CEMETERY ADMINISTRATION FACILITIES OPERATION FUND.—(1) There is established on the book of the Treasury an account to be known as the ''National Cemetery Administration Facilities Operation Fund'' (in this section referred to as the ''Fund'').

(2) The Fund shall consist of the following:

(A) Proceeds from the lease of land or buildings under this section.

(B) Proceeds of agricultural licenses of lands of the National Cemetery Administration.

(C) Any other amounts appropriated to or otherwise authorized for deposit in the Fund by law.

(3) Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration.

(4) Amounts in the Fund shall remain available until expended.

(Added Pub. L. 108–454, title VI, § 602(a), Dec. 10, 2004, 118 Stat. 3623.)

PART III—READJUSTMENT AND RELATED BENEFITS

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37.	Housing and Small Business Loans	3701
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42.	Employment and Training of Veterans	4211
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AMENDMENTS

1994—Pub. L. 103–446, title XII, § 1201(h)(1), Nov. 2, 1994, 108 Stat. 4688, struck out item for chapter 42 and added identical new item for chapter 42.

Pub. L. 103–353, § 2(b)(1), Oct. 13, 1994, 108 Stat. 3169, substituted ''Employment and Reemployment Rights of Members of the Uniformed Services'' and ''4301'' for ''Veterans' Reemployment Rights'' and ''2021'' in item for chapter 43.

1991—Pub. L. 102–83, § 5(b)(2), Aug. 6, 1991, 105 Stat. 406, substituted ''3001'' for ''1401'' in item for chapter 30, ''3100'' for ''1500'' in item for chapter 31, ''3201'' for ''1601'' in item for chapter 32, ''3451'' for ''1651'' in item for chapter 34, ''3500'' for ''1700'' in item for chapter 35, ''3670'' for ''1770'' in item for chapter 36, ''3701'' for ''1801'' in item for chapter 37, ''3901'' for ''1901'' in item for chapter 39, ''4100'' for ''2000'' in item for chapter 41, and ''4211'' for ''2011'' in item for chapter 42.

Pub. L. 102–16, § 9(c)(2), Mar. 22, 1991, 105 Stat. 55, struck out ''Disabled and Vietnam Era'' after ''Employment and Training of'' in item for chapter 42.

1984—Pub. L. 98–525, title VII, § 702(a)(2), Oct. 19, 1984, 98 Stat. 2563, added item for chapter 30.

1982—Pub. L. 97–306, title III, § 301(b)(2), Oct. 14, 1982, 96 Stat. 1437, substituted ''2000'' for ''2001'' in item for chapter 41.

Pub. L. 97–295, § 4(35)(A), Oct. 12, 1982, 96 Stat. 1307, substituted ''1500'' for ''1,500'' in item for chapter 31.

Pub. L. 97–295, § 4(35)(B), Oct. 12, 1982, 96 Stat. 1307, substituted ''1651'' for ''1650'' in item for chapter 34.

1981—Pub. L. 97–72, title III, § 302(b)(2), Nov. 3, 1981, 95 Stat. 1059, substituted ''Housing and Small Business Loans'' for ''Home, Condominium, and Mobile Home Loans'' in item for chapter 37.

1980—Pub. L. 96–466, title I, § 101(b), Oct. 17, 1980, 94 Stat. 2186, substituted ''Training and Rehabilitation for Veterans with Service-Connected Disabilities . . . 1,500'' for ''Vocational Rehabilitation . . . 1501'' in item for chapter 31.

1976—Pub. L. 94–502, title III, § 309(b), title IV, § 405, Oct. 15, 1976, 90 Stat. 2391, 2397, added item for chapter 32 and substituted ''Survivors' and Dependents' Educational Assistance'' for ''War Orphans' and Widows' Education Assistance'' in item for chapter 35.

1974—Pub. L. 93–569, § 7(d), Dec. 31, 1974, 88 Stat. 1866, substituted ''Home, Condominium, and Mobile Home Loans'' for ''Home, Farm, and Business Loans'' in item for chapter 37.

Pub. L. 93–508, title IV, § 404(b), Dec. 3, 1974, 88 Stat. 1600, added item for chapter 43.

1972—Pub. L. 92–540, title V, §§ 502(b), 503(b), Oct. 24, 1972, 86 Stat. 1097, 1098, substituted '', Training and'' for ''and Employment'' in item for chapter 41 and added item for chapter 42.

1971—Pub. L. 91–666, § 2(b), Jan. 11, 1971, 84 Stat. 2000, substituted ''Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces'' for ''Automobiles for Disabled Veterans'' in item for chapter 39.

1968—Pub. L. 90–631, § 2(h)(2), Oct. 23, 1968, 82 Stat. 1333, substituted ''War Orphans' and Widows' Educational Assistance . . . 1700'' for ''War Orphan's Educational Assistance . . . 1701'' in item for chapter 35.

1966—Pub. L. 89–358, §§ 4(c), 6(b), Mar. 3, 1966, 80 Stat. 23, 27, added item for chapter ''34. Veterans' Educational Assistance . . . 1650'', struck out item for chapter ''33. Education of Korean Conflict Veterans . . . 1601'' and added item for chapter 36; and substituted ''Job Counseling and Employment Placement Service for Veterans'' for ''Unemployment Benefits for Veterans'' in item for chapter 41.

1965—Pub. L. 89–50, § 1(b), June 24, 1965, 79 Stat. 173, struck out item for chapter 43 ''Mustering-Out Payments''.

CHAPTER 30—ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM

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AMENDMENTS

2002—Pub. L. 107–330, title III, § 308(b)(2)(B), Dec. 6, 2002, 116 Stat. 2827, amended item 3014A generally, substituting ''in high technology occupation in high technology industry'' for ''in high technology industry''.

2001—Pub. L. 107–107, div. A, title VI, § 654(a)(2), Dec. 28, 2001, 115 Stat. 1156, added item 3020.

Pub. L. 107–103, title I, § 104(a)(2), Dec. 27, 2001, 115 Stat. 981, added item 3014A.

1996—Pub. L. 104–275, title I, § 106(b)(1), Oct. 9, 1996, 110 Stat. 3329, added item 3018C.

1992—Pub. L. 102–484, div. D, title XLIV, § 4404(b)(1), Oct. 23, 1992, 106 Stat. 2706, added item 3018B.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1401 to 1436 as 3001 to 3036, respectively.

Pub. L. 102–54, § 14(c)(2), June 13, 1991, 105 Stat. 285, substituted ''subchapter'' for ''chapter'' in item 1423.

1990—Pub. L. 101–510, div. A, title V, § 561(a)(2), Nov. 5, 1990, 104 Stat. 1573, added item 1418A.

1988—Pub. L. 100–689, title I, §§ 101(b), 103(c), 107(a)(3), Nov. 18, 1988, 102 Stat. 4162, 4166, 4168, added items 1417 to 1419.

1986—Pub. L. 99–576, title III, § 301(d)(2), Oct. 28, 1986, 100 Stat. 3268, amended item 1432 generally, substituting ''Limitations'' for ''Limitation''.

SUBCHAPTER I—PURPOSES; DEFINITIONS

§ 3001. Purposes

The purposes of this chapter are—

(1) to provide a new educational assistance program to assist in the readjustment of members of the Armed Forces to civilian life after their separation from military service;

(2) to extend the benefits of a higher education to qualifying men and women who might not otherwise be able to afford such an education;

(3) to provide for vocational readjustment and to restore lost educational opportunities to those service men and women who served on active duty after June 30, 1985;

(4) to promote and assist the All-Volunteer Force program and the Total Force Concept of the Armed Forces by establishing a new program of educational assistance based upon service on active duty or a combination of service on active duty and in the Selected Reserve (including the National Guard) to aid in the recruitment and retention of highly qualified personnel for both the active and reserve components of the Armed Forces;

(5) to give special emphasis to providing educational assistance benefits to aid in the retention of personnel in the Armed Forces; and

(6) to enhance our Nation's competitiveness through the development of a more highly educated and productive work force.

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2553, § 1401; amended Pub. L. 100–48, § 5, June 1, 1987, 101 Stat. 331; renumbered § 3001, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3001 was renumbered section 5101 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1401 of this title as this section.

1987—Pars. (2) to (6). Pub. L. 100–48 added pars. (2), (3), and (6), redesignated former pars. (2) and (3) as (4) and (5), respectively, struck out "and" after "Forces;" in par. (4), and substituted "Forces; and" for "Forces." in par. (5).

§ 3002. Definitions

For the purposes of this chapter—

(1) The term "basic educational assistance" means educational assistance provided under subchapter II of this chapter.

(2) The term "supplemental educational assistance" means educational assistance provided under subchapter III of this chapter.

(3) The term "program of education"—

(A) has the meaning given such term in section 3452(b) of this title;

(B) includes—

(i) a preparatory course for a test that is required or used for admission to an institution of higher education; and

(ii) a preparatory course for a test that is required or used for admission to a graduate school; and

(C) in the case of an individual who is not serving on active duty, includes (i) a full-time program of apprenticeship or of other on-job training approved as provided in clause (1) or (2), as appropriate, of section 3687(a) of this title, and (ii) a cooperative program (as defined in section 3482(a)(2) of this title).

(4) The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 10143(a) of title 10.

(5) The term "Secretary of Defense" means the Secretary of Defense, except that it means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(6) The term "active duty" does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 12103(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(7) The term "active duty" includes full-time National Guard duty first performed after June 30, 1985, by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard.

(8) The term "educational institution" has the meaning given such term in section 3452(c) of this title.

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2554, § 1402; amended Pub. L. 99–576, title III, § 301(a), Oct. 28, 1986, 100 Stat. 3267; Pub. L. 100–689, title I, §§ 108(a)(1), 111(a)(1), Nov. 18, 1988, 102 Stat. 4169, 4170; Pub. L. 101–237, title IV, § 423(b)(3), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101–510, div. A, title V, § 563(a), Nov. 5, 1990, 104 Stat. 1575; renumbered § 3002 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–337, div. A, title XVI, § 1677(d)(2), Oct. 5, 1994, 108 Stat. 3020; Pub. L. 103–446, title VI, § 603(b), Nov. 2, 1994, 108 Stat. 4671; Pub. L. 104–275, title I, § 107(a), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 106–117, title VII, § 701, Nov. 30, 1999, 113 Stat. 1582; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315.)

PRIOR PROVISIONS

Prior sections 3002 to 3004 were renumbered sections 5102 to 5104 of this title, respectively.

Another prior section 3004, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1225, related to reopening of disallowed claims and to effective date of any subsequent awards, prior to repeal by Pub. L. 87–825, §§ 5(a), 7, Oct. 15, 1962, 76 Stat. 950, effective first day of second calendar month which begins after Oct. 15, 1962.

Prior sections 3005 to 3010 were renumbered sections 5105 to 5110 of this title, respectively.

AMENDMENTS

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

1999—Par. (3)(B), (C). Pub. L. 106–117 added subpar. (B) and redesignated former subpar. (B) as (C).

1996—Par. (7). Pub. L. 104–275 substituted ''June 30, 1985'' for ''November 29, 1989''.

1994—Par. (4). Pub. L. 103–337, § 1677(d)(2)(A), substituted ''section 10143(a) of title 10'' for ''section 268(b) of title 10''.

Par. (6). Pub. L. 103–337, § 1677(d)(2)(B), substituted ''section 12103(d) of title 10'' for ''section 511(d) of title 10''.

Par. (8). Pub. L. 103–446 added par. (8).

1991—Pub. L. 102–83, § 5(a), renumbered section 1402 of this title as this section.

Par. (3). Pub. L. 102–83, § 5(c)(1), substituted ''3452(b)'' for ''1652(b)'' in subpar. (A) and ''3687(a)'' for ''1787(a)'' and ''3482(a)(2)'' for ''1682(a)(2)'' in subpar. (B).

1990—Par. (7). Pub. L. 101–510 added par. (7).

1989—Par. (5). Pub. L. 101–237 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The term 'Secretary' means the Secretary of Defense with respect to members of the Armed Forces under the jurisdiction of the Secretary of a military department and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.''

1988—Par. (3)(B). Pub. L. 100–689, § 111(a)(1), substituted ''in the case of an individual who is not serving on active duty, includes'' for ''includes''.

Pub. L. 100–689, § 108(a)(1), inserted cl. (i) designation and added cl. (ii).

1986—Par. (3). Pub. L. 99–576 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The term 'program of education' has the meaning given such term in section 1652(b) of this title.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103–337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 563(b) of Pub. L. 101–510, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''The amendment made by this section [amending this section] shall apply only to individuals who before the date of entry on active duty, as defined in section 3002(7) [formerly 1402(7)] of title 38, United States Code (as added by subsection (a)), have never served on active duty as defined in section 101(21) of that title.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 108(c) of Pub. L. 100–689 provided that: ''The amendments made by this section [amending this section and sections 1432, 1602, and 1631 [now 3032, 3202, and 3231] of this title] shall take effect on January 1, 1989.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

ELECTION OF BENEFITS UNDER 1996 AMENDMENTS

Section 107(b) of Pub. L. 104–275 provided that:

''(1) An individual may only become eligible for benefits under chapter 30 of title 38, United States Code, as a result of the amendment made by subsection (a) [amending this section] by making an election to become entitled to basic educational assistance under such chapter. The election may only be made during the nine-month period beginning on the date of the enactment of this Act [Oct. 9, 1996] and in the manner required by the Secretary of Defense.

''(2) In the case of any individual making an election under paragraph (1)—

''(A) the basic pay of an individual who, while a member of the Armed Forces, makes an election under paragraph (1) shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is $1,200; or

''(B) to the extent that basic pay is not so reduced before the individual's discharge or release from active duty, the Secretary of Veterans Affairs shall collect from an individual who makes such an election an amount equal to the difference between $1,200 and the total amount of reductions under subparagraph (A), which amount shall be paid into the Treasury as miscellaneous receipts.

''(3) In the case of any individual making an election under paragraph (1), the 10-year period referred to in section 3031 of such title shall begin on the later of—

''(A) the date determined under such section 3031; or

''(B) the date on which the election under paragraph (1) becomes effective.''

SUBCHAPTER II—BASIC EDUCATIONAL ASSISTANCE

§ 3011. Basic educational assistance entitlement for service on active duty

(a) Except as provided in subsection (c) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

(i) who (I) in the case of an individual whose obligated period of active duty is three years or more, serves at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose obligated period of active duty is less than three years, serves at least two years of continuous active duty in the Armed Forces; or

(ii) who serves in the Armed Forces and is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy; (II) for the convenience of the Government, if, in the case of an individual with an obligated pe-

riod of service of two years, the individual completes not less than 20 months of continuous active duty under that period of obligated service, or, in the case of an individual with an obligated period of service of at least three years, the individual completes not less than 30 months of continuous active duty under that period of obligated service; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy;

(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and was on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) after June 30, 1985, serves at least three years of continuous active duty in the Armed Forces; or

(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph; (II) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy; or

(C) as of December 31, 1989, was eligible for educational assistance benefits under chapter 34 of this title and—

(i) was not on active duty on October 19, 1984;

(ii) reenlists or reenters on a period of active duty after October 19, 1984; and

(iii) on or after July 1, 1985, either—

(I) serves at least three years of continuous active duty in the Armed Forces; or

(II) is discharged or released from active duty (aa) for a service-connected disability, for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy;

(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and

(3) who, after completion of the service described in clause (1) of this subsection—

(A) continues on active duty;

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

(C) is released after service on active duty characterized by the Secretary concerned as honorable service and is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

(D) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service;

is entitled to basic educational assistance under this chapter.

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

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

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

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

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

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

(A) before October 1, 1996; or

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

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

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

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

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

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

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

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

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

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

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

(2) This subsection applies to a member who—

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

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

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

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

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

(2) This subsection applies to a member who—

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

(i) at a service academy; or

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

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

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

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

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2554, § 1411; amended Pub. L. 99–145, title VI, § 674(1), Nov. 8, 1985, 99 Stat. 665; Pub. L. 99–576, title III, §§ 303(a)(1), 307(a)(1), 321(1), title VII, § 702(8), Oct. 28, 1986, 100 Stat. 3268, 3269, 3277, 3302; Pub. L. 100–48, § 3(a), June 1, 1987, 101 Stat. 331; Pub. L. 100–689, title I, §§ 102(a), 103(b)(1), 104(a), 111(a)(2)(A), (3), Nov. 18, 1988, 102 Stat. 4162, 4165, 4166, 4170, 4171; Pub. L. 101–237, title IV, §§ 409, 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2092; Pub. L. 101–510, div. A, title V, § 562(a)(1), (2), (b), Nov. 5, 1990, 104 Stat. 1573, 1574; Pub. L. 102–16, § 10(a)(1), Mar. 22, 1991, 105 Stat. 55; renumbered § 3011, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, §§ 302(a)(1), 303(a)(1), 304(a), 305(a), 306(a), Oct.

29, 1992, 106 Stat. 4326–4328; Pub. L. 103–446, title XII, § 1201(e)(10), (f)(2), Nov. 2, 1994, 108 Stat. 4685, 4687; Pub. L. 104–106, div. A, title XV, § 1501(e)(2)(A), Feb. 10, 1996, 110 Stat. 501; Pub. L. 104–201, div. A, title V, § 556(a), Sept. 23, 1996, 110 Stat. 2528; Pub. L. 105–368, title II, §§ 203(a), 207(a), Nov. 11, 1998, 112 Stat. 3326, 3328; Pub. L. 106–117, title VII, §§ 702(a), 704, Nov. 30, 1999, 113 Stat. 1583, 1584; Pub. L. 106–419, title I, §§ 102(a)(1), 103(a), 105(a)(1), Nov. 1, 2000, 114 Stat. 1824, 1825, 1828; Pub. L. 107–14, § 7(a)(1), (c)(1), June 5, 2001, 115 Stat. 31, 32; Pub. L. 107–103, title I, §§ 105(a), 106(a), Dec. 27, 2001, 115 Stat. 982, 983; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107–330, title III, § 308(a), Dec. 6, 2002, 116 Stat. 2827; Pub. L. 108–454, title I, § 109(a), Dec. 10, 2004, 118 Stat. 3604.)

PRIOR PROVISIONS

Prior section 3011 was renumbered section 5111 of this title.

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

AMENDMENTS

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

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

Subsec. (a)(1)(A)(ii)(III). Pub. L. 107–296, which directed the substitution of ''of Homeland Security'' for ''of Transportation'' in subcl. (II), was executed to subcl. (III) to reflect the probable intent of Congress.

Subsec. (a)(1)(B)(ii)(III). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (a)(1)(C)(ii). Pub. L. 107–330 struck out ''on or'' after ''active duty''.

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

2001—Subsec. (a)(1)(A)(i). Pub. L. 107–14, § 7(a)(1), substituted ''(I) in the case of an individual whose obligated period of active duty is three years or more, serves at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose obligated period of active duty is less than three years, serves'' for ''serves an obligated period of active duty of''.

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

Subsec. (c)(3)(B). Pub. L. 107–103, § 106(a), substituted ''$3,400'' for ''$2,000''.

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

Subsec. (e)(3). Pub. L. 107–14, § 7(c)(1)(B), substituted ''multiples of $20'' for ''multiples of $4''.

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

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

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

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

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

''(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed (or otherwise received academic credit for) the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty; and''.

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

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

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

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

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

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

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

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

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

Subsec. (i). Pub. L. 105–368, § 207(a), added subsec. (i).

1996—Subsec. (c)(2). Pub. L. 104–201, § 556(a)(1), struck out ''or upon completion of a program of educational assistance under section 2107 of title 10'' after ''Coast Guard Academy''.

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

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

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

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

1992—Subsec. (a)(1)(B). Pub. L. 102–568, § 302(a)(1), substituted ''at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service'' for ''on October 19, 1984, and without a break in service since October 19, 1984,''.

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

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

Subsec. (f). Pub. L. 102–568, § 304(a), added subsec. (f).

Subsec. (g). Pub. L. 102–568, § 305(a), added subsec. (g).

Subsec. (h). Pub. L. 102–568, § 306(a), added subsec. (h).

1991—Pub. L. 102–83 renumbered section 1411 of this title as this section.

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

''(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

''(B) continues on active duty; or''.

1990—Subsec. (a)(1)(A)(ii)(I). Pub. L. 101–510, § 562(a)(1), substituted ''for'' for ''or for'' and inserted '', or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy'' after ''hardship''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENTS

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

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

Pub. L. 107–14, § 7(c)(4), June 5, 2001, 115 Stat. 33, provided that: ''The amendments made by this subsection [amending this section and sections 3012 and 3015 of this title] shall take effect as if included in the enactment of section 105 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419; 114 Stat. 1828).''

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1999 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

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

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

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

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

EFFECTIVE DATE OF 1986 AMENDMENT

Section 303(b) of Pub. L. 99–576 provided that: ''The amendments made by subsection (a) [amending this section and section 1412 [now 3012] of this title] shall apply to any reduction in basic pay made under section 1411(b) [now 3011(b)] or 1412(c) [now 3012(c)] of title 38, United States Code, after December 31, 1985.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITIONAL PROVISION FOR INDIVIDUALS DISCHARGED BETWEEN ENACTMENT AND EFFECTIVE DATE

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

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

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

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

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

NOTIFICATION REQUIREMENT

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

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

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

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

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

(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and was on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

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

(C) as of December 31, 1989, was eligible for educational assistance under chapter 34 of this title and—

(i) was not on active duty on October 19, 1984;

(ii) reenlists or reenters on a period of active duty on or after October 19, 1984; and

(iii) on or after July 1, 1985—

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

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

(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and

(3) who, after completion of the service described in clause (1) of this subsection—

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

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

is entitled to basic educational assistance under this chapter.

(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, (v) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, or (vi) for a physical or mental condition that was not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title.

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

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

(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Secretary determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, or (VI) for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title; or

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

(2) After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve shall not be considered to be broken—

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

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

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

(2) In the case of an individual covered by paragraph (1) who is a member of the Selected Reserve, the Secretary of Defense shall collect from the individual an amount equal to $1,200

not later than one year after completion by the individual of the two years of service on active duty providing the basis for such entitlement. The Secretary of Defense may collect such amount through reductions in basic pay in accordance with paragraph (1) or through such other method as the Secretary of Defense considers appropriate.

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

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

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

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

(A) before October 1, 1996; or

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

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

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

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

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

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

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

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

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

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2555, § 1412; amended Pub. L. 99–145, title VI, § 674(2), Nov. 8, 1985, 99 Stat. 665; Pub. L. 99–576, title III, §§ 303(a)(2), 307(a)(2), 321(2), Oct. 28, 1986, 100 Stat. 3269, 3277; Pub. L. 100–48, § 3(b), June 1, 1987, 101 Stat. 331; Pub. L. 100–689, title I, §§ 102(b)(1), 103(b)(1), 104(b), 105, 111(a)(2)(B), Nov. 18, 1988, 102 Stat. 4162, 4165, 4166, 4171; Pub. L. 101–237, title IV, §§ 409, 423(a)(1), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2090, 2092; Pub. L. 101–510, div. A, title V, § 562(a)(3), Nov. 5, 1990, 104 Stat. 1574; renumbered § 3012 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–484, div. D, title XLIV, § 4419(b), Oct. 23, 1992, 106 Stat. 2718; Pub. L. 102–568, title III, §§ 302(a)(2), 303(a)(2), Oct. 29, 1992, 106 Stat. 4326, 4327; Pub. L. 103–160, div. A, title V, § 561(m), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–446, title XII, § 1201(f)(2), Nov. 2, 1994, 108 Stat. 4687; Pub. L. 104–106, div. A, title XV, § 1501(e)(2)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 104–201, div. A, title V, § 556(b), Sept. 23, 1996, 110 Stat. 2528; Pub. L. 105–368, title II, §§ 203(a), 207(b), Nov. 11, 1998, 112 Stat. 3326, 3328; Pub. L. 106–117, title VII, § 704, Nov. 30, 1999, 113 Stat. 1584; Pub. L. 106–419, title I, §§ 102(b), 103(b), 105(a)(2), title IV, § 404(a)(6), Nov. 1, 2000, 114 Stat. 1824, 1826, 1829, 1865; Pub. L. 107–14, § 7(c)(2), June 5, 2001, 115 Stat. 32; Pub. L. 107–103, title I, §§ 105(b), 106(a), Dec. 27, 2001, 115 Stat. 982, 983; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 108–454, title I, § 109(b), Dec. 10, 2004, 118 Stat. 3604.)

PRIOR PROVISIONS

Prior section 3012 was renumbered section 5112 of this title.

AMENDMENTS

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

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

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

Subsec. (d)(3)(B). Pub. L. 107–103, § 106(a), substituted "$3,400" for "$2,000".

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

Subsec. (f)(3). Pub. L. 107–14, § 7(c)(2)(B), substituted "multiples of $20" for "multiples of $4".

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

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

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

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

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

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

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

1999—Subsec. (g)(1). Pub. L. 106–117 struck out "Federal" before "Government".

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

Subsec. (g). Pub. L. 105–368, § 207(b), added subsec. (g).

1996—Subsec. (b)(1)(B)(iii). Pub. L. 104–106 substituted "section 10143(a) of title 10" for "section 268(b) of title 10".

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

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

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

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

1992—Subsec. (a)(1)(B). Pub. L. 102–568, § 302(a)(2), substituted "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service" for "on October 19, 1984, and without a break in service since October 19, 1984,".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENTS

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 203(a) of Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

NOTIFICATION REQUIREMENT

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

§ 3013. Duration of basic educational assistance

(a)(1) Subject to section 3695 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 3011 of this title is entitled to 36 months of educational assistance benefits under this chapter (or the equivalent thereof in part-time educational assistance).

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

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

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

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

to the number of months of assistance under this chapter that is equal to the lesser of—

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

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

(3) Subject to section 3695 of this title and subsection (d) of this section, an individual described in clause (B) or (C)(ii) of section 3018(b)(3) of this title (other than an individual described in paragraph (2) of this subsection) is entitled to the number of months of educational assistance under this chapter that is equal to the number of months the individual has served on continuous active duty after June 30, 1985.

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

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

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

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

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

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

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

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

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

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

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

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

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2557, § 1413; amended Pub. L. 99–576, title III, § 321(3), Oct. 28, 1986, 100 Stat. 3277; Pub. L. 100–689, title I, §§ 102(b)(2), 103(b)(2), 111(a)(4), Nov. 18, 1988, 102 Stat. 4163, 4165, 4171; Pub. L. 101–237, title IV, § 423(a)(2), Dec. 18, 1989, 103 Stat. 2091; Pub. L. 101–510, div. A, title V, § 561(b)(1), Nov. 5, 1990, 104 Stat. 1573; renumbered § 3013 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–127, § 2(a), Oct. 10, 1991, 105 Stat. 619; Pub. L. 102–484, div. D, title XLIV, § 4404(b)(2), Oct. 23, 1992, 106 Stat. 2706; Pub. L. 104–275, title I, § 106(b)(2), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 106–419, title I, § 103(c), Nov. 1, 2000, 114 Stat. 1826; Pub. L. 107–103, title I, § 103(a), (d), Dec. 27, 2001, 115 Stat. 979.)

PRIOR PROVISIONS

Prior section 3013 was renumbered section 5113 of this title.

AMENDMENTS

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

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

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

1996—Subsec. (d). Pub. L. 104–275 substituted '', 3018B, or 3018C'' for ''or 3018B''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2001 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

§ 3014. Payment of basic educational assistance

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

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

(2)(A) The amount of the basic educational assistance allowance payable to an individual under this subsection for a month shall be the amount of the basic educational assistance allowance to which the individual would be entitled for the month under section 3015 of this title.

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

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

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

AMENDMENTS

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

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

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

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

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE OF 2001 AMENDMENT

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

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

(a) An individual described in subsection (b) who is entitled to basic educational assistance

under this subchapter may elect to receive an accelerated payment of the basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

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

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

(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of basic educational assistance allowance otherwise payable to the individual under section 3015 of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

AMENDMENTS

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

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

EFFECTIVE DATE

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

§ 3015. Amount of basic educational assistance

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

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

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

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

(C) for months occurring during fiscal year 2004, $985; and

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

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

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

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

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

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

(C) for months occurring during fiscal year 2004, $800; and

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

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

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

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

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

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

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

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

(2) In the case of an individual who after October 7, 1997, receives an enlistment bonus under section 308a or 308f[1] of title 37, receipt of that bonus does not affect the eligibility of that individual for an increase under paragraph (1) in the rate of the basic educational assistance allowance applicable to that individual, and the Secretary concerned may provide such an increase for that individual (and enter into an agreement with that individual that the United States agrees to make payments pursuant to such an increase) without regard to any provision of law (enacted before, on, or after the date of the enactment of this paragraph) that limits the authority to make such payments.

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

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

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

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

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[1] See References in Text note below.

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

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

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

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

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

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

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

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

REFERENCES IN TEXT

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

"(1) the aggregate amount of such allowances paid the individual under such section 3014(b); divided by

"(2) 36."

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

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

Pub. L. 106–419, § 101(a)(1), substituted "$650" for "$528".

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

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

Subsec. (b)(1). Pub. L. 106–419, § 105(b)(1), which directed substitution of "subsection (h)" for "subsection (g)" wherever appearing, could not be executed because the words "subsection (g)" did not appear subsequent

to the amendment by Pub. L. 106–398, § 1 [[div. A], title XVI, § 1602(b)(3)(A)]. See below.

Pub. L. 106–419, § 101(a)(2), substituted ''$528'' for ''$429''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (a)(1). Pub. L. 102–568, § 301(a)(1), substituted ''$400'' for ''$300''.

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

Subsec. (b)(1). Pub. L. 102–568, § 301(a)(2), substituted ''$325'' for ''$250''.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (f). Pub. L. 102–25, § 337(a)(3), added subsec. (f).

1990—Subsec. (e). Pub. L. 101–510 added subsec. (e).

1989—Subsecs. (a)(2), (b)(2). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

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

Pub. L. 101–189 inserted '', in the case of an individual who first became a member of the Armed Forces before

the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991, or $700 per month, in the case of an individual who first became a member of the Armed Forces on or after that date'' before period at end.

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

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

EFFECTIVE DATE OF 2001 AMENDMENT

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

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

EFFECTIVE DATE OF 1998 AMENDMENTS

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

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

EFFECTIVE DATE OF 1993 AMENDMENT

Section 12009(d)(3) of Pub. L. 103–66 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section] shall apply as if included in the enactment of Public Law 102–568.''

EFFECTIVE DATE OF 1992 AMENDMENT

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

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

ADJUSTMENT IN RATES OF EDUCATIONAL ASSISTANCE

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

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

§ 3016. Inservice enrollment in a program of education

(a) A member of the Armed Forces who—

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

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

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

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

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

(b) A member of the Armed Forces who—

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

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

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

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

(c) A member of the Armed Forces who—

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

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

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

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

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

REFERENCES IN TEXT

Section 3011(a)(1)(A)(i), referred to in subsec. (a), was amended generally by Pub. L. 106–419, title I,

[1] See References in Text note below.

§ 103(a)(1)(A), Nov. 1, 2000, 114 Stat. 1825, and, as so amended, does not contain a subcl. (I).

AMENDMENTS

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

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

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

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

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

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

§ 3017. Death benefit

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

(A) who—

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

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

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

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

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

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

(ii) The surviving spouse of the individual.

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

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

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

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

(1) the total of—

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

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

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

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

(2) the total of—

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

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

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

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

AMENDMENTS

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

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

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

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

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

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

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

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3035(b)(1)'' for ''1435(b)(1)''.

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

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

EFFECTIVE DATE OF 2001 AMENDMENT

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

EFFECTIVE DATE

Section 101(c) of Pub. L. 100–689 provided that: ''The amendments made by this section [enacting this section] shall take effect as of July 1, 1985.''

§ 3018. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the ''open period''), an individual who—

(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary of Defense shall prescribe, to withdraw an election made under section 3011(c)(1) or 3012(d)(1) of this title not to receive educational assistance under this chapter.

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

(1) while serving on active duty during the open period, makes a withdrawal of such an election;

(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

(3)(A) serves the obligated period of service described in clause (2) of this subsection;

(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Secretary determines is not service connected, (iii) hardship, or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy); or

(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

(4) before applying for benefits under this section—

(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

(B) successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

(5) upon completion of such obligated period of service—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 3011(c)(1) or 3012(d)(1) of this title shall be reduced by—

(1) $1,200; or

(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200, an amount less than $1,200.

(d) A withdrawal under subsection (b)(1) of this section is irrevocable.

(Added Pub. L. 100–689, title I, § 103(a), Nov. 18, 1988, 102 Stat. 4164, § 1418; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), (4)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–16, § 10(a)(2), Mar. 22, 1991, 105 Stat. 55; renumbered § 3018 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–86, title V, § 506(b)(2), Aug. 14, 1991, 105 Stat. 426; Pub. L. 102–568, title III, § 309(a), Oct. 29, 1992, 106 Stat. 4329; Pub. L. 105–368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106–419, title I, § 102(c), Nov. 1, 2000, 114 Stat. 1825; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (b)(3)(B)(iv). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2000—Subsec. (b)(4). Pub. L. 106–419 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''before completing such obligated period of service (i) has completed the requirements of a secondary school diploma (or an equivalency certificate), or (ii) has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and''.

1998—Subsec. (b)(4)(ii). Pub. L. 105–368 substituted ''successfully completed (or otherwise received academic credit for)'' for ''successfully completed''.

1992—Subsec. (b)(3)(B)(iv). Pub. L. 102–568 added cl. (iv).

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

Subsec. (a). Pub. L. 102–86 made technical amendment to directory language of Pub. L. 101–237, § 423(b)(4)(A). See 1989 Amendment note below.

Pub. L. 102–83, § 5(c)(1), substituted ''3011(c)(1) or 3012(d)(1)'' for ''1411(c)(1) or 1412(d)(1)'' in concluding provisions.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3011(c)(1) or 3012(d)(1)'' for ''1411(c)(1) or 1412(d)(1)'' in introductory provisions.

Subsec. (b)(4). Pub. L. 102–16 substituted ''service (i)'' for ''service,'' and added cl. (ii).

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3011(c)(1) or 3012(d)(1)'' for ''1411(c)(1) or 1412(d)(1)'' in introductory provisions.

1989—Subsec. (a). Pub. L. 101–237, § 423(b)(4)(A), as amended by Pub. L. 102–86, inserted ''of Defense'' after ''Secretary'' in concluding provisions.

Subsec. (b)(3)(B). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 309(b) of Pub. L. 102–568 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if enacted on December 1, 1988.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 506(b)(2) of Pub. L. 102–86 provided that the amendment made by that section is effective as of Dec. 18, 1989.

§ 3018A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service

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

(1) after February 2, 1991, is involuntarily separated (as such term is defined in section 1141 of title 10) with an honorable discharge;

(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree;

(3) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

(5) before such separation elects to receive assistance under this section pursuant to procedures referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

(b) The basic pay of an individual described in subsection (a) of this section shall be reduced by $1,200.

(c) A withdrawal referred to in subsection (a)(3) of this section is irrevocable.

(d)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection[1] shall be disenrolled from such chapter 32 program as of the date of such election.

(2) For each individual who is disenrolled from such program, the Secretary shall refund—

(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(f) of this chapter.

(Added Pub. L. 101–510, div. A, title V, § 561(a)(1), Nov. 5, 1990, 104 Stat. 1571, § 1418A; amended Pub. L. 102–25, title VII, § 705(c)(1), Apr. 6, 1991, 105 Stat. 120; renumbered § 3018A and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(d)(4), (i)(4), Nov. 2, 1994, 108 Stat. 4684, 4688; Pub. L. 105–368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1998—Subsec. (a)(2). Pub. L. 105–368 substituted ''successfully completed (or otherwise received academic credit for)'' for ''successfully completed''.

1994—Subsec. (a)(1). Pub. L. 103–446, § 1201(i)(4), substituted ''after February 2, 1991,'' for ''after December 31, 1990, or the end of the 90-day period beginning on the date of the enactment of this section, whichever is later,''.

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

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

Subsec. (a)(1). Pub. L. 102–25 substituted ''section 1141 of title 10'' for ''section 1142 of title 10''.

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

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

[1] So in original. Probably should be ''section''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

§ 3018B. Opportunity for certain persons to enroll

(a) Notwithstanding any other provision of law—

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

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

(B) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree;

(C) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as service in the Navy;

(D) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in subparagraph (C) of this paragraph, before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

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

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

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

(B) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree;

(C) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before making an election under this paragraph pursuant to procedures which the Secretary shall provide, in consultation with the Secretary of Defense and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as service in the Navy, which shall be similar to the regulations prescribed under paragraph (1)(C) of this subsection;

(D) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in subparagraph (C) of this paragraph, before making an election under this paragraph to receive benefits under this section in lieu of benefits under such chapter 32; and

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

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

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

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

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

(d)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(1)(D) or (a)(2)(D) of this section shall be disenrolled from such chapter 32 program as of the date of such election.

(2) For each individual who is disenrolled from such program, the Secretary shall refund—

(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such account to make

payments of benefits to such individual under section 3015(f) of this title.

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

AMENDMENTS

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

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

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

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

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

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

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 203(a) of Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

§ 3018C. Opportunity for certain VEAP participants to enroll

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

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

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

(3) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree;

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

(5) during the one-year period beginning on October 9, 1996, makes an irrevocable election to receive benefits under this section in lieu of benefits under chapter 32 of this title, pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

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

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

(1) the basic pay of the individual shall be reduced (in a manner determined by the Secretary of Defense) until the total amount by which such basic pay is reduced is $1,200; or

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

(c)(1) Except as provided in paragraph (3), an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(5) shall be disenrolled from such chapter 32 program as of the date of such election.

(2) For each individual who is disenrolled from such program, the Secretary shall refund—

(A) to the individual, as provided in section 3223(b) of this title and subject to subsection (b)(2) of this section, the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) shall remain in such account to make payments of benefits to such individual under section 3015(f) of this title.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

TREATMENT OF CERTAIN CONTRIBUTIONS

Pub. L. 107–14, § 7(e)(2), June 5, 2001, 115 Stat. 33, provided that: "Any amount collected under section

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

§ 3019. Tutorial assistance

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

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

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

(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

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

AMENDMENTS

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

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3492'' for ''1692''.

§ 3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills

(a) IN GENERAL.—Subject to the provisions of this section, each Secretary concerned may, for the purpose of enhancing recruitment and retention of members of the Armed Forces with critical military skills and at such Secretary's sole discretion, permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval by the Secretary concerned of the member's request to transfer entitlement to basic educational assistance under this section—

(1) has completed six years of service in the Armed Forces;

(2) either—

(A) has a critical military skill designated by the Secretary concerned for purposes of this section; or

(B) is in a military specialty designated by the Secretary concerned for purposes of this section as requiring critical military skills; and

(3) enters into an agreement to serve at least four more years as a member of the Armed Forces.

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

(1) To the individual's spouse.

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

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

(d) LIMITATION ON MONTHS OF TRANSFER.—The total number of months of entitlement transferred by an individual under this section may not exceed 18 months.

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

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

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

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

(f) TIME FOR TRANSFER; REVOCATION AND MODIFICATION.—(1) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the individual's request to transfer such entitlement without regard to whether the individual is a member of the Armed Forces when the transfer is executed.

(2)(A) An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

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

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

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

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

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

(B) either—

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

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

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

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

(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

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

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

(5) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

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

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

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

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

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

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

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

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

(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (h)(5) to a dependent to whom entitlement is transferred under this section.

(*l*) ANNUAL REPORT.—(1) Not later than January 31 each year (beginning in 2003), the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the transfers of entitlement to basic educational assistance under this section that were approved by each Secretary concerned during the preceding fiscal year.

(2) Each report shall set forth—

(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding fiscal year; or

(B) if no transfers of entitlement under this section were approved by such Secretary during that fiscal year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that fiscal year.

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

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

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

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

(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the

Secretary of Homeland Security when it is not operating as a service in the Navy.

(Added Pub. L. 107–107, div. A, title VI, § 654(a)(1), Dec. 28, 2001, 115 Stat. 1153; amended Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107–314, div. A, title VI, § 643(a), Dec. 2, 2002, 116 Stat. 2577.)

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

EFFECTIVE DATE OF 2002 AMENDMENTS

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

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

PLAN FOR IMPLEMENTATION

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

SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

§ 3021. Supplemental educational assistance for additional service

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

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

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

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty without a break in service; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

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

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

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

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

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

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

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

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

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

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

PRIOR PROVISIONS

Prior section 3021 was renumbered section 5121 of this title.

AMENDMENTS

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

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) In the case of an individual eligible for educational assistance under this chapter—

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

(2) who applies for an extension of such 10-year period within one year after (A) the last day of such period, or (B) the last day on which such individual was so prevented from pursuing such program, whichever is later,

such 10-year period shall not run with respect to such individual during the period of time that such individual was so prevented from pursuing such program and such 10-year period will again begin running on the first day following such individual's recovery from such disability on which it is reasonably feasible, as determined under regulations which the Secretary shall prescribe, for such individual to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(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.)

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

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 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 APPRENTICESHIP 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 assistance 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, 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 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 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.)

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

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.''

§ 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 meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

(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.)

AMENDMENTS

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 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 Veterans 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 appro-

priated, 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, 2005.

(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.)

AMENDMENTS

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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AMENDMENTS

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1500 to 1521 as 3100 to 3121, respectively.

1986—Pub. L. 99–576, title III, § 333(b)(7), Oct. 28, 1986, 100 Stat. 3279, substituted ''Program'' for ''Pilot program'' in item 1520.

1980—Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2171, amended chapter generally, substituting in chapter heading ''TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES'' for ''VOCATIONAL REHABILITATION'', in item 1504 ''Scope of services and assistance'' for ''Subsistence allowances'', in item 1505 ''Duration of rehabilitation programs'' for ''Leaves of absence'', in item 1506 ''Initial and extended evaluations; determinations regarding serious employment handicap'' for ''Medical care of trainees'', in item 1507 ''Individualized vocational rehabilitation plan'' for ''Loans to trainees'', in item 1508 ''Allowances'' for ''Regulations to promote good conduct'', in item 1509 ''Entitlement to independent living services and assistance'' for ''Books, supplies, and equipment'', in item 1510 ''Leaves of absence'' for ''Vocational rehabilitation for hospitalized persons'', in item 1511 ''Regulations to promote satisfactory conduct and cooperation'' for ''Training and training facilities'', and adding items 1500 and 1512 to 1521.

1965—Pub. L. 89–138, § 2(1), Aug. 26, 1965, 79 Stat. 578, struck out item 1502A, added item 1503, and redesignated former item 1503 as 1511.

1962—Pub. L. 87–591, § 2, Aug. 16, 1962, 76 Stat. 394, added item 1502A.

§ 3100. Purposes

The purposes of this chapter are to provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2172, § 1500; renumbered § 3100, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1500 of this title as this section.

EFFECTIVE DATE

Section 802(a)(1)–(5) of Pub. L. 96–466 provided that:

''(a)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) of section 101 [enacting this chapter] shall become effective on April 1, 1981.

''(2) The provisions of sections 1508, 1512, 1516, 1518, 1519, 1520, and 1521 [now 3108, 3112, 3116, 3118, 3119, 3120, and 3121] of title 38, United States Code, as added by section 101(a), shall become effective on October 1, 1980.

''(3) Notwithstanding paragraph (2), the provisions of chapter 31 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Oct. 17, 1980] (other than section 1504, relating to subsistence allowances, and section 1507, relating to loans [former sections 1504 and 1507 of this title, respectively]), shall continue in effect until March 31, 1981.

''(4) Effective on October 1, 1980, sections 1504 and 1507 [former sections 1504 and 1507 of this title] are repealed. During the period beginning on October 1, 1980, and ending on March 31, 1981, the provisions of sections 1508 and 1512 [now 3108 and 3112] of title 38, United States Code, as added by section 101(a), shall apply to veterans pursuing a program of vocational rehabilitation training under chapter 31 of such title in the same manner as sections 1504 and 1507 of such title, respectively, ap-

plied to veterans pursuing a program of vocational rehabilitation training under such chapter on September 30, 1980.

''(5) Subsection (c) of section 101 [enacting provisions set out as a note under section 3108 of this title] shall become effective on October 1, 1980. Subsection (d) of such section [enacting provisions set out as a note under section 3107 of this title] shall become effective on the date of the enactment of this Act [Oct. 17, 1980].''

§ 3101. Definitions

For the purposes of this chapter—

(1) The term ''employment handicap'' means an impairment, resulting in substantial part from a disability described in section 3102(1)(A) of this title, of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(2) The term ''independence in daily living'' means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran's family and community.

(3) The term ''program of education'' has the meaning provided in section 3452(b) of this title.

(4) The term ''program of independent living services and assistance'' includes (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Secretary to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

(5) The term ''rehabilitated to the point of employability'' means rendered employable in an occupation for which a vocational rehabilitation program has been provided under this chapter.

(6) The term ''rehabilitation program'' means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance authorized under section 3120 of this title for a veteran for whom a vocational goal has been determined not to be currently reasonably feasible.

(7) The term ''serious employment handicap'' means a significant impairment, resulting in substantial part from a service-connected disability rated at 10 percent or more, of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

(8) The term ''vocational goal'' means a gainful employment status consistent with a veteran's abilities, aptitudes, and interests.

(9) The term ''vocational rehabilitation program'' includes—

(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Secretary to be needed—

(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be currently reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent feasible, employable and to obtain and maintain suitable employment, and

(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2172, § 1501; amended Pub. L. 99–576, title III, § 333(b)(1), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3101 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 101(a), Oct. 9, 1996, 110 Stat. 3323.)

Prior Provisions

Prior section 3101 was renumbered section 5301 of this title.

Amendments

1996—Par. (1). Pub. L. 104–275, § 101(a)(1), inserted '', resulting in substantial part from a disability described in section 3102(1)(A) of this title,'' after ''impairment''.

Par. (6). Pub. L. 104–275, § 101(a)(2), inserted ''authorized under section 3120 of this title'' after ''assistance''.

Par. (7). Pub. L. 104–275, § 101(a)(3), inserted '', resulting in substantial part from a service-connected disability rated at 10 percent or more,'' after ''impairment''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1501 of this title as this section.

Par. (3). Pub. L. 102–83, § 5(c)(1), substituted ''3452(b)'' for ''1652(b)''.

1989—Pars. (4), (9)(A). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1986—Pars. (6)(B), (9)(A)(i). Pub. L. 99–576 inserted ''currently'' after ''be''.

Effective Date of 1996 Amendment

Section 101(j) of Pub. L. 104–275 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 3102 to 3109, 3117, 3118, and 3120 of this title] shall take effect on the date of the enactment of this Act [Oct. 9, 1996].

''(2) The amendments made by subsection (a) (other than paragraph (2)) [amending this section], subsection (d) (other than subparagraphs (A) and (B) of paragraph (1)) [amending section 3104 of this title], and subsection (i) [amending section 3120 of this title] shall only apply with respect to claims of eligibility or entitlement to services and assistance (including claims for extension of such services and assistance) under chapter 31 of title 38, United States Code, received by the Secretary of Veterans Affairs on or after the date of the enactment of this Act, including those claims based on original applications, and applications seeking to reopen, revise, reconsider, or otherwise adjudicate or readjudicate on any basis claims for services and assistance under such chapter.''

Effective Date

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, as amended, set out as a note under section 3100 of this title.

§ 3102. Basic entitlement

A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

(1) the person—

(A) is—

(i) a veteran who has a service-connected disability rated at 20 percent or more which was incurred or aggravated in service on or after September 16, 1940; or

(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

(B) is determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

(2) the person is a veteran who—

(A) has a service-connected disability rated at 10 percent which was incurred or aggravated in service on or after September 16, 1940; and

(B) is determined by the Secretary to be in need of rehabilitation because of a serious employment handicap.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2173, § 1502; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101–508, title VIII, § 8021(a), Nov. 5, 1990, 104 Stat. 1388–347; Pub. L. 102–16, § 3(a), Mar. 22, 1991, 105 Stat. 49; renumbered § 3102, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title IV, § 404(a), Oct. 29, 1992, 106 Stat. 4338; Pub. L. 104–275, title I, § 101(b), Oct. 9, 1996, 110 Stat. 3323.)

PRIOR PROVISIONS

Prior section 3102 was renumbered section 5302 of this title.

AMENDMENTS

1996—Par. (1)(A)(i). Pub. L. 104–275, § 101(b)(1), substituted ''rated at 20 percent or more'' for ''which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and''.

Par. (2)(A). Pub. L. 104–275, § 101(b)(2), substituted ''rated at 10 percent'' for ''which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and''.

Par. (2)(B). Pub. L. 104–275, § 101(b)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''has a serious employment handicap.''

1992—Pub. L. 102–568 amended section generally, making changes in substance and structure.

1991—Pub. L. 102–83 renumbered section 1502 of this title as this section.

Par. (1)(B). Pub. L. 102–16 substituted ''or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that (i) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment either is doing so under contract or agreement with the Secretary concerned or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned, and (ii) the person is suffering from a disability which'' for ''for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the Secretary determines''.

1990—Par. (1). Pub. L. 101–508 substituted ''compensable at a rate of 20 percent or more'' for ''compensable'' in cls. (A) and (B).

1989—Pub. L. 101–237 substituted ''Secretary determines'' for ''Administrator determines'' in par. (1)(B) and ''Secretary'' for ''Administrator'' in par. (2).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 404(b) of Pub. L. 102–568, as amended by Pub. L. 103–446, title VI, § 602(c)(1), Nov. 2, 1994, 108 Stat. 4671, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993, but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.''

[Section 602(c)(2) of Pub. L. 103–446 provided that: ''The amendment made by paragraph (1) [amending section 404(b) of Pub. L. 102–568, set out above] shall take effect as of October 29, 1992.'']

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8021(b) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section] shall apply to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after November 1, 1990.''

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3103. Periods of eligibility

(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

(b)(1) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Secretary shall prescribe, for such veteran to participate in such a program.

(2) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eli-

gibility prescribed in subsection (a) of this section because—

(A) such veteran had not met the requirement of a discharge or release from active military, naval, or air service under conditions other than dishonorable before (i) the nature of such discharge or release was changed by appropriate authority, or (ii) the Secretary determined, under regulations prescribed by the Secretary, that such discharge or release was under conditions other than dishonorable, or

(B) such veteran's discharge or dismissal was, under section 5303 of this title, a bar to benefits under this title before the Secretary made a determination that such discharge or dismissal is not a bar to such benefits,

the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

(3) In any case in which the Secretary determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability rated at 10 percent or more, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

(c) In any case in which the Secretary determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Secretary also determines, on the basis of such veteran's current employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

(1) that such veteran had not previously been rehabilitated to the point of employability;

(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such veteran's current employment handicap and capabilities; or

(3) under regulations which the Secretary shall prescribe, that an extension of the period of eligibility of such veteran is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d) In any case in which the Secretary has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance in accordance with the provisions of section 3120 of this title after the expiration of the period of eligibility otherwise applicable to such veteran if the Secretary also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

(e) In any case in which the Secretary has determined that a veteran was prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility otherwise prescribed in this section 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, such period of eligibility shall not run for the period of such active duty service plus four months.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2173, § 1503; amended Pub. L. 99–576, title III, § 333(b)(2), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3103 and amended, Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(d)(8), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104–275, title I, § 101(c), Oct. 9, 1996, 110 Stat. 3324; Pub. L. 107–103, title I, § 103(c)(2), Dec. 27, 2001, 115 Stat. 979; Pub. L. 107–330, title III, § 308(h), Dec. 6, 2002, 116 Stat. 2829.)

PRIOR PROVISIONS

Prior section 3103 was renumbered section 5303 of this title.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–330 made technical correction to directory language of Pub. L. 107–103. See 2001 Amendment note below.

2001—Subsec. (e). Pub. L. 107–103, as amended by Pub. L. 107–330, added subsec. (e).

1996—Subsec. (b)(3). Pub. L. 104–275, § 101(c)(1), substituted "rated at 10 percent or more" for "described in section 3102(1)(A)(i) of this title".

Subsec. (c). Pub. L. 104–275, § 101(c)(2)(A), substituted "current" for "particular" in introductory provisions.

Subsec. (c)(2). Pub. L. 104–275, § 101(c)(2)(B), substituted "veteran's current employment" for "veteran's employment".

Subsec. (d). Pub. L. 104–275, § 101(c)(3), substituted "in accordance with the provisions of section 3120 of this title" for "under this chapter".

1994—Subsec. (b)(3). Pub. L. 103–446 substituted "section 3102(1)(A)(i)" for "section 3102(1)(A)".

1991—Pub. L. 102–83, § 5(a), renumbered section 1503 of this title as this section.

Subsec. (b)(2)(B). Pub. L. 102–40 substituted "5303" for "3103".

Subsec. (b)(3). Pub. L. 102–83, § 5(c)(1), substituted "3102(1)(A)" for "1502(1)(A)".

1989—Subsecs. (b) to (d). Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1986—Subsec. (d). Pub. L. 99–576 inserted "currently" after "goal".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title III, § 308(h), Dec. 6, 2002, 116 Stat. 2829, provided that the amendment made by section 308(h) of Pub. L. 107–330 is effective as of Dec. 27, 2001, and as if included in section 103(c) of the Veterans Education and Benefits Expansion Act of 2001, Pub. L. 107–103, as originally enacted.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107–103, set out as a note under section 3013 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3104. Scope of services and assistance

(a) Services and assistance which the Secretary may provide under this chapter, pursuant to regulations which the Secretary shall prescribe, include the following:

(1) Evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether the veteran has an employment handicap or a serious employment handicap and whether a vocational goal is reasonably feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services and assistance to improve the vocational rehabilitation potential or independent living status of such veteran, as appropriate.

(2) Educational, vocational, psychological, employment, and personal adjustment counseling.

(3) An allowance and other appropriate assistance, as authorized by section 3108 of this title.

(4) A work-study allowance as authorized by section 3485 of this title.

(5) Placement services to effect suitable placement in employment, and postplacement services to attempt to insure satisfactory adjustment in employment.

(6) Personal adjustment and work adjustment training.

(7)(A) Vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, handling charges, licensing fees, and equipment and other training materials determined by the Secretary to be necessary to accomplish the purposes of the rehabilitation program in the individual case.

(B) Payment for the services and assistance provided under subparagraph (A) of this paragraph shall be made from funds available for the payment of readjustment benefits.

(8) Loans as authorized by section 3112 of this title.

(9) Treatment, care, and services described in chapter 17 of this title.

(10) Prosthetic appliances, eyeglasses, and other corrective and assistive devices.

(11) Services to a veteran's family as necessary for the effective rehabilitation of such veteran.

(12) For veterans with the most severe service-connected disabilities who require homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Secretary determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Secretary shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

(13) Travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage.

(14) Special services (including services related to blindness and deafness) including—

(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

(C) telecommunications, sensory, and other technical aids and devices.

(15) Services necessary to enable a veteran to achieve maximum independence in daily living.

(16) Other incidental goods and services determined by the Secretary to be necessary to accomplish the purposes of a rehabilitation program in an individual case.

(b) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Secretary.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2174, § 1504; amended Pub. L. 100–323, § 11(a)(3)(A), May 20, 1988, 102 Stat. 568; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–16, § 3(b)(1), Mar. 22, 1991, 105 Stat. 49; Pub. L. 102–54, § 14(c)(3), June 13, 1991, 105 Stat. 285; renumbered § 3104 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 101(d), Oct. 9, 1996, 110 Stat. 3324.)

PRIOR PROVISIONS

Prior section 3104 was renumbered section 5304 of this title.

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104–275, § 101(d)(1)(A), substituted "the veteran has an employment handicap or" for "such veteran's disability or disabilities cause" and inserted "reasonably" after "goal is".

Subsec. (a)(7)(A). Pub. L. 104–275, § 101(d)(1)(B), struck out "(i)" after "assistance, including" and ", and (ii) job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act" after "individual case".

Subsec. (a)(12). Pub. L. 104–275, § 101(d)(1)(C), substituted "For veterans with the most severe service-connected disabilities who require" for "For the most severely disabled veterans requiring".

Subsecs. (b), (c). Pub. L. 104–275, § 101(d)(2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796a)."

1991—Pub. L. 102–83, § 5(a), renumbered section 1504 of this title as this section.

Subsec. (a)(3). Pub. L. 102–83, § 5(c)(1), substituted "3108" for "1508".

Subsec. (a)(4). Pub. L. 102–83, § 5(c)(1), substituted "3485" for "1685".

Subsec. (a)(7). Pub. L. 102–16 designated existing provisions as subpar. (A), redesignated former cls. (A) and (B) as cls. (i) and (ii), respectively, substituted "han-

dling charges, licensing'' for ''and licensing'', and added subpar. (B).

Subsec. (a)(8). Pub. L. 102–83, § 5(c)(1), substituted ''3112'' for ''1512''.

Subsec. (b). Pub. L. 102–54 substituted ''(29 U.S.C. 796a)'' for ''(29 U.S.C. 796)''.

1989—Subsecs. (a), (c). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (a)(7). Pub. L. 100–323 designated existing provisions as subpar. (A) and added subpar. (B).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 9, 1996, with amendment by section 101(d)(1)(C), (2) of Pub. L. 104–275 only applicable with respect to claims of eligibility or entitlement to services and assistance (including claims for extension of such services and assistance) under this chapter received by the Secretary of Veterans Affairs on or after Oct. 9, 1996, including those claims based on original applications, and applications seeking to reopen, revise, reconsider, or otherwise adjudicate or readjudicate on any basis claims for services and assistance under this chapter, see section 101(j) of Pub. L. 104–275, set out as a note under section 3101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 3(b)(2) of Pub. L. 102–16 provided that: ''The amendments made by this subsection [amending this section] shall apply only to payments made on or after the date of the enactment of this Act [Mar. 22, 1991].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 16 of Pub. L. 100–323 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the provisions of and amendments made by this Act [see Tables for classification] shall take effect on the date of the enactment of this Act [May 20, 1988].

''(b) EXCEPTIONS.—(1) The following provisions of or amendments made by this Act shall take effect for all of fiscal year 1988 and subsequent fiscal years:

''(A) Clause (5) of subsection (b) of section 2002A [now 4102A] of title 38, United States Code, as added by section 2(a)(2) of this Act.

''(B) Subsection (a) of section 2003A [now 4103A] of such title, as amended by section 2(e)(1)(A) of this Act.

''(C) Paragraphs (1), (2), and (3) of section 2004(a) [now 4104(a)] of such title, as amended by section 3(a) of this Act.

''(D) Paragraphs (2) through (5) of section 1774(a) [now 3674(a)] of such title, as added by section 13(a)(1) of this Act.

''(2) The provisions of and amendments made by sections 4 through 11 [see Tables for classification] shall take effect on the 60th day after the date of the enactment of this Act [May 20, 1988].''

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER FORMER SECTION 1504 OF THIS TITLE

During the period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of section 3108 [formerly 1508] of this title, as added by Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2178, shall apply to veterans pursuing a program of vocational rehabilitation training under this chapter in the same manner as former section 1504 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980. See section 802(a)(4) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title.

§ 3105. Duration of rehabilitation programs

(a) In any case in which the Secretary is unable to determine whether it currently is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 3106(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Secretary determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonably feasible in the case of such veteran.

(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the current reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 3104(a)(2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Secretary determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

(c) The Secretary may extend the period of a vocational rehabilitation program for a veteran to the extent that the Secretary determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the Secretary also determines—

(1) that such veteran had previously been rehabilitated to the point of employability but (A) such veteran's need for further vocational rehabilitation has arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated is not suitable in view of such veteran's current employment handicap and capabilities; or

(2) under regulations which the Secretary shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d) Unless the Secretary determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the Secretary that such veteran's disability or disabilities are so severe that the achievement of a vocational goal currently is not reasonably feasible) may not exceed twenty-four months.

(e)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of a subsistence allowance and other assistance described in paragraph (2) shall not—

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

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

(2) The payment of the subsistence allowance and other assistance referred to in paragraph (1)

is the payment of such an allowance or assistance for the period described in paragraph (3) to a veteran for participation in a vocational rehabilitation program under this chapter if the Secretary finds that the veteran had to suspend or discontinue participation in such vocational rehabilitation program 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.

(3) The period for which, by reason of this subsection, a subsistence allowance and other assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall be the period of participation in the vocational rehabilitation program for which the veteran failed to receive credit or with respect to which the veteran lost training time, as determined by the Secretary.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2176, § 1505; amended Pub. L. 99–576, title III, § 333(b)(3), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3105 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 101(e), Oct. 9, 1996, 110 Stat. 3324; Pub. L. 107–103, title I, § 103(c)(1), Dec. 27, 2001, 115 Stat. 979.)

PRIOR PROVISIONS

Prior section 3105 was renumbered section 5305 of this title.

AMENDMENTS

2001—Subsec. (e). Pub. L. 107–103 added subsec. (e).

1996—Subsec. (c)(1). Pub. L. 104–275 substituted ''veteran's current employment'' for ''veteran's employment''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1505 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3106(c)'' for ''1506(c)''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3104(a)(2)'' for ''1504(a)(2)''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (a). Pub. L. 99–576, § 333(b)(3)(A), inserted ''currently'' after ''it''.

Subsec. (b). Pub. L. 99–576, § 333(b)(3)(B), inserted ''current'' after ''of the''.

Subsec. (d). Pub. L. 99–576, § 333(b)(3)(C), inserted ''currently'' after ''goal''.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107–103, set out as a note under section 3013 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3106. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The Secretary shall provide any veteran who has a service-connected disability rated at 10 percent or more and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 3104(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

(A) whether such veteran has a serious employment handicap, and

(B) whether the achievement of a vocational goal currently is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

(b) In any case in which the Secretary has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal currently is reasonably feasible for such veteran, such veteran shall be provided an individualized written plan of vocational rehabilitation developed under section 3107(a) of this title.

(c) In any case in which the Secretary has determined that a veteran has a serious employment handicap but the Secretary is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with an extended evaluation consisting of the services described in section 3104(a)(1) of this title, such services under this chapter as the Secretary determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 3108 of this title.

(d) In any case in which the Secretary has determined that a veteran has a serious employment handicap and also determines, following such initial and any such extended evaluation, that achievement of a vocational goal currently is not reasonably feasible, the Secretary shall determine whether the veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title.

(e) The Secretary shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran currently is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 3105(a) of this title), the Secretary shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the Secretary shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

(f) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Secretary shall assign a Department of Veterans Affairs employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 3117 of this title) and assistance under this chapter to such veteran.

(Added Pub. L. 96–466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2176, §1506; amended Pub. L. 99–576, title III, §333(b)(4), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101–237, title IV, §423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered §3106 and amended Pub. L. 102–83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, §1201(d)(9), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104–275, title I, §101(f)(1), Oct. 9, 1996, 110 Stat. 3324.)

PRIOR PROVISIONS

Prior section 3106 was renumbered section 5306 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–275, §101(f)(1)(A), substituted ''rated at 10 percent or more'' for ''described in clause (i) or (ii) of section 3102(1)(A) of this title''.

Subsec. (b). Pub. L. 104–275, §101(f)(1)(B), struck out ''counseling in accordance with'' before ''an individualized written plan''.

Subsec. (c). Pub. L. 104–275, §101(f)(1)(C), substituted ''with an extended'' for ''with extended''.

Subsecs. (d) to (f). Pub. L. 104–275, §101(f)(1)(D), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1994—Subsec. (a). Pub. L. 103–446 substituted ''clause (i) or (ii) of section 3102(1)(A)'' for ''section 3102(1)(A) or (B)''.

1991—Pub. L. 102–83, §5(a), renumbered section 1506 of this title as this section.

Subsec. (a). Pub. L. 102–83, §5(c)(1), substituted ''3102(1)(A)'' for ''1502(1)(A)'' and ''3104(a)(1)'' for ''1504(a)(1)'' in introductory provisions.

Subsec. (b). Pub. L. 102–83, §5(c)(1), substituted ''3107(a)'' for ''1507(a)''.

Subsec. (c). Pub. L. 102–83, §5(c)(1), substituted ''3104(a)(1)'' for ''1504(a)(1)'' and ''3108'' for ''1508''.

Subsec. (d). Pub. L. 102–83, §5(c)(1), substituted ''3105(a)'' for ''1505(a)''.

Subsec. (e). Pub. L. 102–83, §5(c)(1), substituted ''3117'' for ''1517''.

1989—Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1986—Subsecs. (a)(2)(B), (b) to (d). Pub. L. 99–576 substituted ''currently is reasonably feasible'' for ''is reasonably feasible'' wherever appearing.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§3107. Individualized vocational rehabilitation plan

(a) The Secretary shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 3106(b) of this title. Such plan shall be developed with such veteran and shall include, but not be limited to (1) a statement of long-range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, and (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved.

(b) The Secretary shall review at least annually the plan formulated under subsection (a) of this section for a veteran and shall afford such veteran the opportunity to participate in each such review. On the basis of such review, the Secretary shall (1) redevelop such plan with such veteran if the Secretary determines, under regulations which the Secretary shall prescribe, that redevelopment of such plan is appropriate, or (2) disapprove redevelopment of such plan if the Secretary determines, under such regulations, that redevelopment of such plan is not appropriate.

(c)(1) Each veteran for whom a plan has been developed or redeveloped under subsection (a) or (b)(1), respectively, of this section or in whose case redevelopment of a plan has been disapproved under subsection (b)(2) of this section, shall be informed of such veteran's opportunity for a review as provided in paragraph (2) of this subsection.

(2) In any case in which a veteran does not agree to such plan as proposed, to such plan as redeveloped, or to the disapproval of redevelopment of such plan, such veteran may submit to the person described in section 3106(f) of this title a written statement containing such veteran's objections and request a review of such plan as proposed or redeveloped, or a review of the disapproval of redevelopment of such plan, as the case may be.

(3) The Secretary shall review the statement submitted under paragraph (2) of this subsection and the plan as proposed or as redeveloped, and, if applicable, the disapproval of redevelopment of the plan, and render a decision on such review not later than ninety days after the date on which such veteran submits such statement, unless the case is one for which a longer period for review, not to exceed 150 days after such veteran submits such statement, is allowed under regulations prescribed by the Secretary, in which case the Secretary shall render a decision no later than the last day of the period prescribed in such regulations.

(Added Pub. L. 96–466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2177, §1507; amended Pub. L. 101–237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3107 and amended Pub. L. 102–83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, §101(f)(2)(A), Oct. 9, 1996, 110 Stat. 3325.)

PRIOR PROVISIONS

Prior section 3107 was renumbered section 5307 of this title.

AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104–275 substituted ''3106(f)'' for ''3106(e)''.

1991—Pub. L. 102–83, §5(a), renumbered section 1507 of this title as this section.

Subsecs. (a), (c)(2). Pub. L. 102–83, §5(c)(1), substituted ''3106(b)'' for ''1506(b)'' in subsec. (a) and ''3106(e)'' for ''1506(e)'' in subsec. (c)(2).

1989—Subsecs. (a), (b), (c)(3). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

INDIVIDUALIZED WRITTEN PLANS AND EXTENSIONS OF ELIGIBILITY AND VOCATIONAL REHABILITATION PROGRAM PERIODS FOR VETERANS IN PROGRAMS ON MARCH 31, 1981

Section 101(d) of Pub. L. 96–466 provided that with respect to veterans participating in a program of vocational rehabilitation under this chapter on Mar. 31, 1981, individualized written plans of vocational rehabilitation were to be formulated under this section as determined by Administrator, and authorized extensions of periods of vocational rehabilitation without regard to certain requirements for determinations of serious employment handicaps.

VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER FORMER SECTION 1507 OF THIS TITLE

During the period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of section 3112 [formerly 1512] of this title, as added by Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, shall apply to veterans pursuing a program of vocational rehabilitation training under this chapter in the same manner as former section 1507 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980, see section 802(a)(4) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title.

§ 3108. Allowances

(a)(1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Secretary to be a period of such veteran's participation under this chapter in a rehabilitation program.

(2) In any case in which the Secretary determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title.

(3) A subsistence allowance may not be paid under this chapter to a veteran for any period during which such veteran is being provided with an initial evaluation under section 3106(a) of this title or during which such veteran is being provided only with counseling or with placement or postplacement services under section 3105(b) of this title.

(b)(1) Except as otherwise provided in this section, the Secretary shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$366	$454	$535	$39
Three-quarter time.	275	341	400	30
Half-time	184	228	268	20
Farm cooperative, apprentice, or other on-job training:				
Full-time	320	387	446	29
Extended evaluation:				
Full-time	366	454	535	39
Independent living training:				
Full-time	366	454	535	39
Three-quarter time.	275	341	400	30
Half-time	184	228	268	20

(2) With respect to the fiscal year beginning on October 1, 1994, the Secretary shall provide a percentage increase in the monthly rates payable under paragraph (1) of this subsection equal to the percentage by which the Consumer Price Index (all items, United States city average published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1994, exceeds such Consumer Price Index for the 12-month period ending June 30, 1993.

(3) With respect to any fiscal year beginning on or after October 1, 1995, the Secretary shall continue to pay, in lieu of the rates payable under paragraph (1) of this subsection, the monthly rates payable under this subsection for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

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

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

(c)(1) In any case in which the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Secretary a statement in writing showing any wage, compensation, or other income paid (directly or indirectly) by the employer to such veteran for such month. Based upon such written statement, the Secretary is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Secretary shall establish in regulations which the Secretary shall prescribe.

(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal, State, or local government agency or federally recognized Indian tribe

under the provisions of section 3115(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

(d)(1) The Secretary shall, in accordance with regulations which the Secretary shall prescribe, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the Secretary shall prescribe.

(e) In any case in which a veteran is pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Secretary may (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

(f)(1)(A) In any case in which the Secretary determines that a veteran is eligible for and entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter 30 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under chapter 30 of this title, if the Secretary approves the educational, professional, or vocational objective chosen by such veteran for such program.

(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter 30 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

(2) A veteran who is receiving an allowance pursuant to paragraph (1) of this subsection may not receive any of the services or assistance described in section 3104(a)(3), (7), and (8) of this title (other than an allowance and other assistance under this subsection).

(g)(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(h) Notwithstanding any other provision of this title, the amount of subsistence allowance, or other allowance under subsection (f) of this section, that may be paid to a veteran pursuing a rehabilitation program for any month for which such veteran receives compensation at the rate prescribed in section 1114(j) of this title as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the Department of Veterans Affairs may not exceed, when added to any compensation to which such veteran is entitled for such month, an amount equal to the greater of—

(1) the sum of—

(A) the amount of monthly subsistence or other allowance that would otherwise be paid to such veteran under this section, and

(B) the amount of monthly compensation that would be paid to such veteran if such veteran were not receiving compensation at such rate as the result of such hospital treatment or observation; or

(2) the amount of monthly compensation payable under section 1114(j) of this title.

(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 3680(d) of this title.

(Added Pub. L. 96–466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2178, §1508; amended Pub. L. 97–306, title II, §205(a), Oct. 14, 1982, 96 Stat. 1434; Pub. L. 98–525, title VII, §703(a), Oct. 19, 1984, 98 Stat. 2564; Pub. L. 98–543, title II, §201, Oct. 24, 1984, 98 Stat. 2740; Pub. L. 101–237, title IV, §§402(a), 423(b)(1), Dec. 18, 1989, 103 Stat. 2078, 2092; Pub. L. 102–16, §3(c), Mar. 22, 1991, 105 Stat. 49; renumbered §3108 and amended Pub. L. 102–83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title IV, §405(a), (b), Oct. 29, 1992, 106 Stat. 4338, 4339; Pub. L. 103–446, title VI, §602(b), Nov. 2, 1994, 108 Stat. 4671; Pub. L. 104–275, title I, §101(g), Oct. 9, 1996, 110 Stat. 3325.)

PRIOR PROVISIONS

Prior section 3108 was renumbered section 5308 of this title.

Provisions similar to those comprising this section were contained in former section 1504 of this title prior to the general revision of this chapter by Pub. L. 96–466.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–275, §101(g)(1), substituted ''while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title'' for ''following the conclusion of such pursuit''.

Subsec. (f)(1)(A). Pub. L. 104–275, §101(g)(2)(A), inserted ''eligible for and'' after ''veteran is'' and substituted ''chapter 30'' for ''chapter 30 or 34'' and ''enrolled under chapter 30'' for ''enrolled under either chapter 30 or chapter 34''.

Subsec. (f)(1)(B). Pub. L. 104–275, §101(g)(2)(B), substituted ''chapter 30'' for ''chapter 30 or 34''.

1994—Subsec. (c)(2). Pub. L. 103–446 inserted ''or federally recognized Indian tribe'' after ''local government agency''.

1992—Subsec. (b). Pub. L. 102–568, §405(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Pub. L. 102–568, §405(a), increased the monthly rehabilitation subsistence allowance for eligible veterans in column II from $333, $250, $167, $291, $333, $333, $250, and $167 to $366, $275, $184, $320, $366, $366, $275, and $184; in column III from $413, $310, $207, $352, $413, $413, $310, and

$207 to $454, $341, $228, $387, $454, $454, $341, and $228; in column IV from $486, $364, $244, $405, $486, $486, $364, and $244 to $535, $400, $268, $446, $535, $535, $$400, and $268; and in column V from $35, $27, $18, $26, $35, $35, $27, and $18 to $39, $30, $20, $29, $39, $39, $30, and $20, respectively.

1991—Pub. L. 102–83, § 5(a), renumbered section 1508 of this title as this section.

Subsec. (a)(3). Pub. L. 102–83, § 5(c)(1), substituted ''3106(a)'' for ''1506(a)'' and ''3105(b)'' for ''1505(b)''.

Subsec. (c)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3115(a)(1)'' for ''1515(a)(1)''.

Pub. L. 102–16 inserted '', State, or local government'' after ''Federal''.

Subsec. (f)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3104(a)(3)'' for ''1504(a)(3)''.

Subsec. (h). Pub. L. 102–83, § 5(c)(1), substituted ''1114(j)'' for ''314(j)'' in two places.

Subsec. (i). Pub. L. 102–83, § 5(c)(1), substituted ''3680(d)'' for ''1780(d)''.

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

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

Pub. L. 101–237, § 402(a), increased the monthly rehabilitation subsistence allowance for eligible veterans in column II from $310, $233, $155, $271, $310, $310, $233, and $155 to $333, $250, $167, $291, $333, $333, $250, and $167; in column III from $384, $288, $193, $327, $384, $384, $288, and $193 to $413, $310, $207, $352, $413, $413, $310, and $207; in column IV from $452, $339, $227, $377, $452, $452, $339, and $227 to $486, $364, $244, $405, $486, $486, $364, and $244; in column V from $33, $25, $17, $24, $33, $33, $25, and $17 to $35, $27, $18, $26, $35, $35, $27, and $18, respectively.

Subsecs. (c)(1) to (f)(1)(A). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

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

1984—Subsec. (b). Pub. L. 98–543 increased the monthly rehabilitation subsistence allowance for eligible veterans in column II from $282, $212, $141, $246, $282, $282, $212, and $141 to $310, $233, $155, $271, $310, $310, $233, and $155; in column III from $349, $262, $175, $297, $349, $349, $262, and $175 to $384, $288, $193, $323, $384, $384, $288, and $193; in column IV from $411, $308, $206, $343, $411, $411, $308, and $206 to $452, $339, $227, $377, $452, $452, $339, and $227; in column V from $30, $23, $15, $22, $30, $30, $23, and $15 to $33, $25, $17, $24, $33, $33, $25, and $17, respectively.

Subsec. (f)(1)(A), (B). Pub. L. 98–525 inserted references to chapter 30 of this title.

1982—Subsec. (g)(2). Pub. L. 97–306 inserted ''not'' after ''shall'' and struck out ''if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government'' at end.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 405(c) of Pub. L. 102–568 provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall take effect on October 1, 1993.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 402(b) of Pub. L. 101–237 provided that: ''The amendment made by this section [amending this section] shall take effect on January 1, 1990.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 205 of Pub. L. 98–543 provided that: ''The amendments made by this part [part A (§§ 201–205) of title II of Pub. L. 98–543, see Tables for classification] shall take effect as of October 1, 1984.''

EFFECTIVE DATE; VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER THIS CHAPTER

Section effective Oct. 1, 1980, and during period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of this section, as added by Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2178, shall apply to veterans pursuing a program of vocational rehabilitation training under this chapter in the same manner as former section 1504 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980, see section 802(a)(2), (4) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title.

APPLICABILITY OF SUBSECTION (g)(1) TO APPORTIONMENTS MADE BEFORE OCTOBER 17, 1980

Section 101(c) of Pub. L. 96–466 provided that: ''The provisions of section 1508(g)(1) [now 3108(g)(1)] of title 38, United States Code, as added by subsection (a) shall not apply to an apportionment made under section 3107(c) [now 5307(c)] of such title before the date of the enactment of this Act [Oct. 17, 1980].''

§ 3109. Entitlement to independent living services and assistance

In any case in which the Secretary has determined under section 3106(e) of this title that the achievement of a vocational goal by a veteran currently is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 3120 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, § 1509; amended Pub. L. 99–576, title III, § 333(b)(5), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3109 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 101(f)(2)(B), Oct. 9, 1996, 110 Stat. 3325.)

PRIOR PROVISIONS

Prior section 3109 was renumbered section 5309 of this title.

AMENDMENTS

1996—Pub. L. 104–275 substituted ''3106(e)'' for ''3106(d)''.

1991—Pub. L. 102–83 renumbered section 1509 of this title as this section and substituted ''3106(d)'' for ''1506(d)'' and ''3120'' for ''1520''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1986—Pub. L. 99–576 inserted ''currently'' after first reference to ''veteran''.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3110. Leaves of absence

The Secretary shall prescribe such regulations as the Secretary determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, § 1510; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3110, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3110 was renumbered section 5310 of this title.

Provisions similar to those comprising this section were contained in former section 1505 of this title prior to the general revision of this chapter by Pub. L. 96–466.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1510 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3111. Regulations to promote satisfactory conduct and cooperation

The Secretary shall prescribe such rules and regulations as the Secretary determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursuing rehabilitation programs under this chapter. In any case in which the Secretary determines that a veteran has failed to maintain satisfactory conduct or cooperation, the Secretary may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the Secretary determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the Secretary may reinstitute such services and assistance only if the Secretary determines that—

(1) the cause of the unsatisfactory conduct or cooperation of such veteran has been removed; and

(2) the rehabilitation program which such veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, § 1511; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3111, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3111 was renumbered section 5311 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1511 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3112. Revolving fund loans

The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Secretary, under regulations prescribed by the Secretary, for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents (as provided in section 3108(b) of this title) to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the Secretary, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, § 1512; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3112 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a), referred to in text, means the vocational rehabilitation revolving fund established by par. 8 of part VII of Veterans Regulation Numbered 1(a), as added by act Mar. 24, 1943, ch. 22, § 2, 57 Stat. 44, which was set out in chapter 12A of former Title 38, Pensions, Bonuses, and Veterans' Relief. The appropriation for such fund made by act July 12, 1943, ch. 218, § 1, 57 Stat. 434, was reduced by act June 24, 1954, ch. 359, title I, § 101(part), 68 Stat. 293, and repealed by Pub. L. 85–857, § 14(82), Sept. 2, 1958, 72 Stat. 1272. Part VII of Veterans Regulation Numbered 1(a) was repealed by section 14(67) of Pub. L. 85–857, effective Jan. 1, 1959, which provided in part, that repeal of part VII should not take effect in such manner as to impair the operation of the deferred repeal of a portion of paragraph 9 of the part as provided in section 21 of the Government Employees Training Act, Pub. L. 85–507, July 7, 1958, 72 Stat. 337. For continuation of certain rights and benefits see section 12 of Pub. L. 85–857, set out as a note preceding part I of this title.

For effective date of the Veterans' Rehabilitation and Education Amendments of 1980, referred to in text, see section 802 of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title.

PRIOR PROVISIONS

Prior section 3112 was renumbered section 5312 of this title.

Provisions similar to those comprising this section were contained in former section 1507 of this title prior to the general revision of this chapter by Pub. L. 96–466.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1512 of this title as this section and substituted ''3108(b)'' for ''1508(b)''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE; VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER THIS CHAPTER

Section effective Oct. 1, 1980, and during period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of this section, as added by Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, shall apply to veterans pursuing a program of vocational rehabilitation training under this chapter in the same manner as former section 1507 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980, see section 802(a)(2), (4) of Pub. L. 96–466, set out as an Effective Date note under section 3100 of this title.

§ 3113. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans

(a) Services and assistance may be provided under this chapter to a person described in sub-

paragraphs (A)(ii) and (B) of section 3102(1) of this title who is hospitalized pending discharge from active military, naval, or air service. In such cases, no subsistence allowance shall be paid.

(b) Services and assistance may be provided under this chapter to a veteran who is receiving care in a Department of Veterans Affairs hospital, nursing home, or domiciliary facility or in any other hospital or medical facility.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2181, § 1513; amended Pub. L. 101–237, title IV, § 423(b)(1)(B), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3113 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(d)(10), Nov. 2, 1994, 108 Stat. 4684.)

PRIOR PROVISIONS

Prior section 3113 was renumbered section 5313 of this title.

Provisions similar to those comprising subsec. (a) of this section were contained in former section 1510 of this title prior to the general revision of this chapter by Pub. L. 96–466.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 substituted ''subparagraphs (A)(ii) and (B) of section 3102(1)'' for ''section 3102(1)(B) and (2)''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1513 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3102(1)(B)'' for ''1502(1)(B)''.

1989—Subsec. (b). Pub. L. 101–237 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3114. Vocational rehabilitation outside the United States

Under regulations which the Secretary shall prescribe, a vocational rehabilitation program under this chapter may be provided outside the United States if the Secretary determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2182, § 1514; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3114, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3114 was renumbered section 5314 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1514 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3115. Rehabilitation resources

(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the Secretary may—

(1) use the facilities of any Federal agency (including the Department of Veterans Affairs), of any State or local government agency receiving Federal financial assistance, or of any federally recognized Indian tribe, to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay in any case in which the Secretary determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

(2) use the facilities, staff, and other resources of the Department of Veterans Affairs;

(3) employ such additional personnel and experts as the Secretary considers necessary; and

(4) use the facilities and services of any Federal, State, or other public agency, any agency maintained by joint Federal and State contributions, any federally recognized Indian tribe, any public or private institution or establishment, and any private individual.

(b)(1) While pursuing on-job training or work experience under subsection (a)(1) of this section at a Federal agency, a veteran shall be considered to be an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

(2) Except as provided in chapter 17 of this title, hospital care and medical services provided under this chapter shall be furnished in facilities over which the Secretary has direct jurisdiction.

(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

(4) The Secretary shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.

(c) For purposes of this section, the term ''federally recognized Indian tribe'' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2182, § 1515; amended Pub. L. 100–689, title II, § 201, Nov. 18, 1988, 102 Stat. 4175; Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3115, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 602(a), Nov. 2, 1994, 108 Stat. 4671.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in subsec. (c), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

Prior section 3115 was renumbered section 5315 of this title.

Provisions similar to those comprising this section were contained in former section 1511 of this title prior to the general revision of this chapter by Pub. L. 96–466.

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–446, §602(a)(1)(A), struck out ''or'' after ''(including the Department of Veterans Affairs),'' and inserted ''or of any federally recognized Indian tribe,'' after ''financial assistance,''.

Subsec. (a)(4). Pub. L. 103–446, §602(a)(1)(B), inserted ''any federally recognized Indian tribe,'' after ''contributions,''.

Subsec. (c). Pub. L. 103–446, §602(a)(2), added subsec. (c).

1991—Pub. L. 102–83 renumbered section 1515 of this title as this section.

1989—Subsecs. (a), (b)(2), (4). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1988—Subsec. (a)(1). Pub. L. 100–689, §201(1), inserted '', or of any State or local government agency receiving Federal financial assistance,'' after ''Administration)''.

Subsec. (b)(1). Pub. L. 100–689, §201(2)(A), inserted ''at a Federal agency'' after ''section''.

Subsec. (b)(3), (4). Pub. L. 100–689, §201(2)(B), added pars. (3) and (4) and struck out former par. (3) which read as follows: ''Use of facilities and services under clause (4) of subsection (a) of this section, shall be procured through contract, agreement, or other cooperative arrangement.''

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§3116. Promotion of employment and training opportunities

(a) The Secretary shall actively promote the development and establishment of employment, training, and other related opportunities for (1) veterans who are participating or who have participated in a rehabilitation program under this chapter, (2) veterans with service-connected disabilities, and (3) other veterans to whom the employment emphases set forth in chapter 42 of this title apply. The Secretary shall promote the development and establishment of such opportunities through Department of Veterans Affairs staff outreach efforts to employers and through Department of Veterans Affairs coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations. In carrying out the provisions of this subsection with respect to veterans referred to in clause (3) of the first sentence of this subsection, the Secretary shall place particular emphasis on the needs of categories of such veterans on the basis of applicable rates of unemployment.

(b)(1) The Secretary, pursuant to regulations prescribed in accordance with paragraph (3) of this subsection, may make payments to employers for providing on-job training to veterans who have been rehabilitated to the point of employability in individual cases in which the Secretary determines that such payment is necessary to obtain needed on-job training or to begin employment. Such payments may not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity.

(2) In any case in which a veteran described in paragraph (1) of this subsection participates in on-job training described in such paragraph that satisfies the criteria for payment of a training assistance allowance under section 3687 of this title, such veteran shall, to the extent that such veteran has remaining eligibility for and entitlement to such allowance, be paid such allowance.

(3) The Secretary shall prescribe regulations under this subsection in consultation with the Secretary of Labor and, in prescribing such regulations, shall take into consideration the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V) and section 4212 of this title, and regulations prescribed under such provisions.

(Added Pub. L. 96–466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2182, §1516; amended Pub. L. 101–237, title IV, §423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered §3116 and amended Pub. L. 102–83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (b)(3), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Rehabilitation Act of 1973 is classified generally to subchapter V (§790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Prior section 3116 was renumbered section 5316 of this title.

AMENDMENTS

1991—Pub. L. 102–83, §5(a), renumbered section 1516 of this title as this section.

Subsec. (b)(2), (3). Pub. L. 102–83, §5(c)(1), substituted ''3687'' for ''1787'' in par. (2) and ''4212'' for ''2012'' in par. (3).

1989—Subsecs. (a), (b)(1), (3). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 802(a)(2) of Pub. L. 96–466, set out as a note under section 3100 of this title.

COORDINATION WITH PROGRAMS UNDER VETERANS' JOB TRAINING ACT

Pub. L. 99–238, title II, §202, Jan. 13, 1986, 99 Stat. 1768, as amended by Pub. L. 102–83, §§5(c)(2), 6(g), Aug. 6, 1991, 105 Stat. 406, 408, provided that:

''(a) IN GENERAL.—In carrying out section 3116(b) [formerly 1516(b)] of title 38, United States Code, the Secretary of Veterans Affairs shall take all feasible steps to establish and encourage, for veterans who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training consistent with the

provisions of the Veterans' Job Training Act (as redesignated by section 201(a)(1) of this Act) [29 U.S.C. 1721 note] so as to utilize programs of job training established by employers pursuant to such Act.

''(b) DIRECTIVE.—In carrying out such Act, the Secretary of Veterans Affairs shall take all feasible steps to ensure that, in the cases of veterans who are eligible to have payments made on their behalf under both such Act and section 3116(b) [formerly 1516(b)] of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the veteran's best interests, to make payments to employers on behalf of such veterans.''

§ 3117. Employment assistance

(a)(1) A veteran with a service-connected disability rated at 10 percent or more who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.] and who the Secretary has determined to be employable shall be furnished assistance in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap, including assistance necessary to insure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training.

(2) Assistance provided under this subsection may include—

(A) direct placement of such veteran in employment;

(B) utilization of employment, training, and placement services under chapter 41 of this title; and

(C) utilization of the job development and placement services of (i) programs under the Rehabilitation Act of 1973, (ii) the State employment service and the Veterans' Employment Service of the Department of Labor, (iii) the Office of Personnel Management, (iv) any other public or nonprofit organization having placement services available, and (v) any for-profit entity in a case in which the Secretary has determined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.

(b)(1) In any case in which a veteran has completed a vocational rehabilitation program for self-employment in a small business enterprise under this chapter, the Secretary shall assist such veteran in securing, as appropriate, a loan under subchapter IV of chapter 37 of this title and shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to insure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

(2) In the case of a veteran described in clause (12) of section 3104(a) of this title who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise, the Secretary may, subject to the limitations and criteria provided for in such clause, provide such veteran with such supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2183, § 1517; amended Pub. L. 97–72, title III, § 303(k), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 100–689, title II, § 202(a), Nov. 18, 1988, 102 Stat. 4175; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–54, § 14(c)(4), June 13, 1991, 105 Stat. 285; renumbered § 3117 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 101(h), Oct. 9, 1996, 110 Stat. 3325; Pub. L. 107–288, § 4(e)(2), Nov. 7, 2002, 116 Stat. 2044.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (a)(1), (2)(C)(i), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Section 8 of the Small Business Act (15 U.S.C. 633(b)), referred to in subsec. (b)(1), probably means section 2[4] of the Small Business Act, Pub. L. 85–536, § 2[4], July 18, 1958, 72 Stat. 384, as amended by section 8 of Pub. L. 93–237, Jan. 2, 1974, 87 Stat. 1025, which is classified to section 633(b) of Title 15, Commerce and Trade.

PRIOR PROVISIONS

Prior section 3117 was renumbered section 5317 of this title.

AMENDMENTS

2002—Subsec. (a)(2)(B). Pub. L. 107–288 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''utilization of the services of disabled veterans outreach program specialists under section 4103A of this title; and''.

1996—Subsec. (a)(1). Pub. L. 104–275 inserted ''rated at 10 percent or more'' after ''disability''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1517 of this title as this section.

Subsec. (a)(1). Pub. L. 102–54, § 14(c)(4)(A), inserted ''(29 U.S.C. 701 et seq.)'' after ''1973''.

Subsec. (a)(2)(B). Pub. L. 102–83, § 5(c)(1), substituted ''4103A'' for ''2003A''.

Subsec. (a)(2)(C)(v). Pub. L. 102–54, § 14(c)(4)(B), struck out second period at end.

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3104(a)'' for ''1504(a)''.

1989—Subsecs. (a)(1), (2)(C), (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (a)(2)(C). Pub. L. 100–689 struck out ''and'' at end of subcl. (iii), substituted ''available, and'' for ''available'' in subcl. (iv), and added subcl. (v).

1981—Subsec. (b)(1). Pub. L. 97–72 inserted provision requiring the Administrator to assist veterans in securing, as appropriate, a loan under subchapter IV of chapter 37 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97–72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3118. Personnel training, development, and qualifications

(a) The Secretary shall provide a program of ongoing professional training and development for Department of Veterans Affairs counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Secretary may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

(b) The Secretary shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

(c) Notwithstanding any other provision of law, the Secretary shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 3106(f) of this title as the Secretary determines are necessary and appropriate to insure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Secretary shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2184, § 1518; amended Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3118 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 101(f)(2)(C), Oct. 9, 1996, 110 Stat. 3325.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973 (29 U.S.C. ch. 16), referred to in subsec. (c), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Prior section 3118 was renumbered section 5318 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104–275 substituted ''3106(f)'' for ''3106(e)''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1518 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3106(e)'' for ''1506(e)''.

1989—Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 802(a)(2) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3119. Rehabilitation research and special projects

(a) The Secretary shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Secretary shall conduct and provide support for the development or conduct, or both the development and conduct, of—

(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

(b) For the purpose specified in subsection (a) of this section, the Secretary is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

(c) The Secretary shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2184, § 1519; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3119, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1519 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 802(a)(2) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3120. Program of independent living services and assistance

(a) The Secretary may, under contracts with entities described in subsection (f) of this section, or through facilities of the Veterans Health Administration, which possess a demonstrated capability to conduct programs of independent living services for severely handicapped persons, provide, under regulations which the Secretary shall prescribe, programs of independent living services and assistance under this chapter, in various geographic regions of the United States, to veterans described in subsection (b) of this section.

(b) A program of independent living services and assistance may be made available under this

section only to a veteran who has a serious employment handicap resulting in substantial part from a service-connected disability described in section 3102(1)(A)(i) of this title and with respect to whom it is determined under section 3106(d) or (e) of this title that the achievement of a vocational goal currently is not reasonably feasible.

(c) The Secretary shall, to the maximum extent feasible, include among those veterans who are provided with programs of independent living services and assistance under this section substantial numbers of veterans described in subsection (b) of this section who are receiving long-term care in Department of Veterans Affairs hospitals and nursing homes and in nursing homes with which the Secretary contracts for the provision of care to veterans.

(d) A program of independent living services and assistance for a veteran shall consist of such services described in section 3104(a) of this title as the Secretary determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans under section 3107 of this title.

(e) Programs of independent living services and assistance shall be initiated for no more than 2,500 veterans in each fiscal year, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

(f) Entities described in this subsection are (1) public or nonprofit agencies or organizations, and (2) for-profit entities in cases in which the Secretary determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Veterans Health Administration.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2185, § 1520; amended Pub. L. 99–576, title III, § 333(a), (b)(6), (c), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 100–689, title II, § 202(b), Nov. 18, 1988, 102 Stat. 4176; Pub. L. 101–237, title IV, §§ 404, 423(b)(1), Dec. 18, 1989, 103 Stat. 2080, 2092; renumbered § 3120 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(b)(1), (d)(11), Nov. 2, 1994, 108 Stat. 4682, 4684; Pub. L. 104–275, title I, § 101(f)(2)(D), (i), Oct. 9, 1996, 110 Stat. 3325; Pub. L. 107–103, title V, § 508(a), Dec. 27, 2001, 115 Stat. 997.)

AMENDMENTS

2001—Subsec. (e). Pub. L. 107–103 substituted ''2,500 veterans'' for ''five hundred veterans''.

1996—Subsec. (b). Pub. L. 104–275, § 101(i)(1), substituted ''serious employment handicap resulting in substantial part from a service-connected disability described in section 3102(1)(A)(i)'' for ''service-connected disability described in section 3102(1)(A)''.

Pub. L. 104–275, § 101(f)(2)(D), substituted ''3106(d) or (e)'' for ''3106(d)''.

Subsec. (d). Pub. L. 104–275, § 101(i)(2), struck out ''and (b)'' after ''section 3104(a)''.

1994—Subsec. (a). Pub. L. 103–446, § 1201(b)(1), substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

Subsec. (b). Pub. L. 103–446, § 1201(d)(11), which directed substitution of ''section 3102(1)(A)(i)'' for ''section 3012(1)(A)'', could not be executed because the words ''section 3012(1)(A)'' did not appear.

Subsec. (f). Pub. L. 103–446, § 1201(b)(1), substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1520 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3102(1)(A)'' for ''1502(1)(A)'' and ''3106(d)'' for ''1506(d)''.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''3104(a)'' for ''1504(a)'' and ''3107'' for ''1507''.

1989—Subsec. (a). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 404(2)–(4), redesignated former par. (1) of subsec. (a) as entire subsection, substituted ''The'' for ''During fiscal years 1982 through 1989, the'', ''subsection (f) of this section'' for ''paragraph (7) of this subsection'' and ''subsection (b) of this section'' for ''paragraph (2) of this subsection'', redesignated former pars. (2), (3), (4), (6), and (7) of subsec. (a) as subsecs. (b), (c), (d), (e), and (f) of this section, respectively, and struck out former par. (5) which read as follows: ''Any contract for services initiated with respect to any veteran under this section before the end of fiscal year 1989 may be continued in effect after the end of such year for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter.''

Subsec. (b). Pub. L. 101–237, § 404(1), (3), (5), redesignated former subsec. (a)(2) as (b), struck out before period at end ''and who is selected pursuant to criteria provided for in regulations prescribed under paragraph (1) of this subsection'' and struck out former subsec. (b) which read as follows: ''Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives statistical data regarding veterans' participation in the program conducted under subsection (a) of this section during fiscal years 1987 and 1988 and any recommendations of the Administrator for administrative or legislative action or both regarding the program.''

Subsec. (c). Pub. L. 101–237, § 423(b)(1), substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

Pub. L. 101–237, § 404(3), (6), redesignated former subsec. (a)(3) as (c) and substituted ''subsection (b) of this section'' for ''paragraph (2) of this subsection''.

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

Pub. L. 101–237, § 404(3), redesignated former subsec. (a)(4) as (d).

Subsec. (e). Pub. L. 101–237, § 404(3), (7), redesignated former subsec. (a)(6) as (e) and substituted ''in each fiscal year'' for ''in each of the fiscal years 1982 through 1989''.

Subsec. (f). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

Pub. L. 101–237, § 404(3), (8), redesignated former subsec. (a)(7) as (f) and substituted ''in this subsection are (1) public or nonprofit agencies or organizations, and (2)'' for ''in this paragraph are (A) public or nonprofit agencies or organizations, and (B)''.

1988—Subsec. (a)(1). Pub. L. 100–689, § 202(b)(1), substituted ''entities described in paragraph (7) of this subsection'' for ''public or nonprofit private agencies or organizations''.

Subsec. (a)(7). Pub. L. 100–689, § 202(b)(2), added par. (7).

1986—Pub. L. 99–576, § 333(b)(6), substituted ''Program'' for ''Pilot program'' in section catchline.

Subsec. (a)(1). Pub. L. 99–576, § 333(a)(1)(A), substituted ''1989'' for ''1985''.

Subsec. (a)(2). Pub. L. 99–576, § 333(a)(1)(B), inserted ''currently'' after ''goal''.

Subsec. (a)(5), (6). Pub. L. 99–576, § 333(a)(1)(A), substituted ''1989'' for ''1985''.

Subsec. (b). Pub. L. 99–576, § 333(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Not later than September 30, 1984, the Administrator shall submit to the Congress a report on the programs of independent living services and assistance provided for in subsection (a) of this section. Such report shall include—

''(1) the results of a study which the Administrator shall conduct of the accomplishments and cost-effectiveness of such programs, including the extent to which (A) such programs have met needs for comprehensive independent living services that would not otherwise have been met, (B) severely disabled veterans have achieved and maintained greater independence in daily living as a result of participation in the programs, and (C) costs of care in hospital, nursing home, and domiciliary facilities have been and may be avoided as the result of such programs; and

''(2) the Administrator's recommendations for any legislative changes with respect to the provision of independent living services and assistance to veterans for whom the achievement of a vocational goal is not feasible.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title V, § 508(b), Dec. 27, 2001, 115 Stat. 997, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of September 30, 2001.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 9, 1996, with amendment by section 101(i) of Pub. L. 104–275 only applicable with respect to claims of eligibility or entitlement to services and assistance (including claims for extension of such services and assistance) under this chapter received by the Secretary of Veterans Affairs on or after Oct. 9, 1996, including those claims based on original applications, and applications seeking to reopen, revise, reconsider, or otherwise adjudicate or readjudicate on any basis claims for services and assistance under this chapter, see section 101(j) of Pub. L. 104–275, set out as a note under section 3101 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 802(a)(2) of Pub. L. 96–466, set out as a note under section 3100 of this title.

§ 3121. Veterans' Advisory Committee on Rehabilitation

(a)(1) The Secretary shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the ''Committee'').

(2) The members of the Committee shall be appointed by the Secretary from the general public and shall serve for terms to be determined by the Secretary not to exceed three years. Veterans with service-connected disabilities shall be appropriately represented in the membership of the Committee, and the Committee shall also include persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Secretary may designate one of the members of the Committee appointed under this paragraph to chair the Committee.

(3) The Committee shall also include as ex officio members the following: (A) one representative from the Veterans Health Administration and one from the Veterans Benefits Administration, (B) one representative from the Rehabilitation Services Administration of the Department of Education and one from the National Institute for Handicapped Research of the Department of Education, and (C) one representative of the Assistant Secretary of Labor for Veterans' Employment and Training of the Department of Labor.

(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of veterans' rehabilitation programs under this title.

(c) The Committee shall submit to the Secretary an annual report on the rehabilitation programs and activities of the Department of Veterans Affairs and shall submit such other reports and recommendations to the Secretary as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Department of Veterans Affairs designed to meet such needs. The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a copy of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary was submitted to the Congress pursuant to such section.

(Added Pub. L. 96–466, title I, § 101(a), Oct. 17, 1980, 94 Stat. 2186, § 1521; amended Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–54, § 14(c)(5), June 13, 1991, 105 Stat. 285; renumbered § 3121 and amended Pub. L. 102–83, §§ 2(c)(3), 5(a), Aug. 6, 1991, 105 Stat. 402, 406; Pub. L. 103–446, title XII, § 1201(b)(1), (i)(5), Nov. 2, 1994, 108 Stat. 4682, 4688.)

AMENDMENTS

1994—Subsec. (a)(3)(A). Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery'' and ''Veterans Benefits Administration'' for ''Department of Veterans' Benefits''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1521 of this title as this section.

Subsec. (a)(3). Pub. L. 102–54 substituted ''Veterans' Employment and Training'' for ''Veterans' Employment''.

Subsec. (c). Pub. L. 102–83, § 2(c)(3), substituted ''section 529'' for ''section 214''.

1989—Subsecs. (a)(1), (2), (b). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 802(a)(2) of Pub. L. 96–466, set out as a note under section 3100 of this title.

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE; DEFINITIONS

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3231. Entitlement; loan eligibility.
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3234. Tutorial assistance.

SUBCHAPTER IV—ADMINISTRATION

3241. Requirements.
3243. Deposits; reports.

AMENDMENTS

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1601 to 1643 as 3201 to 3243, respectively.

Pub. L. 102–16, § 5(b), Mar. 22, 1991, 105 Stat. 50, struck out item 1642 ''Reporting requirements''.

1988—Pub. L. 100–689, title I, § 107(b)(2), Nov. 18, 1988, 102 Stat. 4169, added item 1634.

1986—Pub. L. 99–576, title III, § 310(b)(3), Oct. 28, 1986, 100 Stat. 3272, added item 1633.

1982—Pub. L. 97–295, § 4(36), Oct. 12, 1982, 96 Stat. 1307, inserted ''the'' after ''bar'' in item 1625.

SUBCHAPTER I—PURPOSE; DEFINITIONS

§ 3201. Purpose

It is the purpose of this chapter (1) to provide educational assistance to those men and women who enter the Armed Forces after December 31, 1976, and before July 1, 1985, (2) to assist young men and women in obtaining an education they might not otherwise be able to afford, and (3) to promote and assist the all volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2393, § 1601; amended Pub. L. 99–576, title III, § 309(a)(1), Oct. 28, 1986, 100 Stat. 3270; renumbered § 3201, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior section 3201 was renumbered section 5501 of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1601 of this title as this section.

1986—Pub. L. 99–576 inserted ''and before July 1, 1985,''.

EFFECTIVE DATE

Section 406 of title IV of Pub. L. 94–502 provided that: ''The provisions of this title [enacting this chapter, amending sections 1652, 1661, and 1662 [now 3452, 3461, and 3462] of this title and section 725s of former Title 31, Money and Finance, and enacting provisions set out as a note under section 3221 of this title] shall become effective on January 1, 1977.''

SHORT TITLE

For short titles of Pub. L. 94–502, and title IV of Pub. L. 94–502, which enacted this chapter, see Short Title of 1976 Amendments note set out under section 101 of this title.

ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

Section 309(c), (d) of Pub. L. 99–576 provided that:

''(c) EXCEPTION.—Notwithstanding the amendments made by subsection (a) [amending this section and sections 1602 and 1621 [now 3202 and 3221] of this title], any individual on active duty in the Armed Forces who was eligible on June 30, 1985, to enroll in the program established by chapter 32 of title 38, United States Code, may enroll, before April 1, 1987, in such program.

''(d) NOTICE REQUIREMENT.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall carry out activities for the purpose of notifying, to the maximum extent feasible, individuals described in subsection (c) of the opportunity provided by such subsection.''

§ 3202. Definitions

For the purposes of this chapter—

(1)(A) The term ''eligible veteran'' means any veteran who is not eligible for educational assistance under chapter 34 of this title and who (i) entered military service on or after January 1, 1977, and before July 1, 1985, served on active duty for a period of more than 180 days commencing on or after January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977, and before July 1, 1985, and was discharged or released from active duty after January 1, 1977, for a service-connected disability.

(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any participant who 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.

(C) For the purposes of subparagraphs (A) and (B), the term ''active duty'' does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d)[1] of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(D)(i) The requirement of ineligibility for educational assistance under chapter 34 of this title, prescribed in subparagraph (A), shall be waived in the case of a veteran described in division (ii) of this subparagraph who elects to receive benefits under this chapter instead of assistance under such chapter 34. A veteran who makes such an election shall be ineligible for assistance under such chapter. Such an election is irrevocable.

(ii) A veteran referred to in division (i) of this subparagraph is a veteran who before January 1, 1977, performed military service described in subparagraph (C)(iii), is entitled under section 3452(a)(3)(C) of this title to have such service considered to be ''active duty'' for the purposes of chapter 34 of this title, and is eligible for assistance under such chapter only by reason of having such service considered to be active duty.

(2) The term ''program of education''—

[1] See References in Text note below.

(A) has the meaning given such term in section 3452(b) of this title, and

(B) includes (i) a full-time program of apprenticeship or other on-job training approved as provided in clause (1) or (2), as appropriate, of section 3687(a) of this title, and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 3482(a)(2) of this title).

(3) The term ''participant'' is a person who is participating in the educational benefits program established under this chapter.

(4) The term ''educational institution'' has the meaning given such term in section 3452(c) of this title.

(5) The term ''training establishment'' has the meaning given such term in section 3452(e) of this title.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2394, § 1602; amended Pub. L. 96–466, title IV, § 401, Oct. 17, 1980, 94 Stat. 2201; Pub. L. 98–223, title II, § 203(a), Mar. 2, 1984, 98 Stat. 41; Pub. L. 99–576, title III, §§ 309(a)(2), 310(a), Oct. 28, 1986, 100 Stat. 3270, 3271; Pub. L. 100–689, title I, § 108(b)(1), Nov. 18, 1988, 102 Stat. 4169; Pub. L. 102–54, § 14(c)(6), June 13, 1991, 105 Stat. 285; renumbered § 3202 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 511 of title 10, referred to in par. (1)(C)(iii), was renumbered section 12103 of Title 10, Armed Forces, by Pub. L. 103–337, div. A, title XVI, § 1662(b)(2), Oct. 5, 1994, 108 Stat. 2989.

PRIOR PROVISIONS

Prior sections 3202 to 3205 were renumbered sections 5502 to 5505 of this title, respectively, and section 5505 was subsequently repealed by Pub. L. 103–446, title XII, § 1201(g)(4)(A), Nov. 2, 1994, 108 Stat. 4687.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1602 of this title as this section.

Par. (1)(A). Pub. L. 102–54 inserted comma after last reference to ''1977''.

Par. (1)(D)(ii). Pub. L. 102–83, § 5(c)(1), substituted ''3452(a)(3)(C)'' for ''1652(a)(3)(C)''.

Par. (2). Pub. L. 102–83, § 5(c)(1), substituted ''3452(b)'' for ''1652(b)'' in subpar. (A) and ''3687(a)'' for ''1787(a)'' and ''3482(a)(2)'' for ''1682(a)(2)'' in subpar. (B).

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 Secretary 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 ending 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, including 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 ''Servicemembers' 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—

(i) the payment made to the fund by the Secretary of Defense under subparagraph (D) of this paragraph, and

(ii) any payment for a course or courses described in subparagraph (B) of this paragraph that was paid out of the fund,

had not been made or paid.

(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate), as authorized by section 3491(a) of this title, during the last six months of such member's first enlistment and at any time thereafter.

(c) When an eligible veteran is pursuing a program of education under this chapter by correspondence, such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

(d)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Secretary determines, in accordance with regulations which the Secretary shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 3233 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Secretary) or under any State or local program.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(e)(1) Subject to subsection (a)(1) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 3241(b) of this title shall be paid educational assistance 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 payment 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 entitlement of an eligible veteran pursuing a program of education described in paragraph (1) of this subsection shall be charged at the rate of one month for each amount of educational assistance paid which is equal to the monthly benefit otherwise payable to such veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

(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.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396, § 1631; amended Pub. L. 96–466, title IV, §§ 403, 404, Oct. 17, 1980, 94 Stat. 2201; Pub. L. 97–35, title XX, §§ 2003(a)(1), 2005(a), Aug. 13, 1981,

95 Stat. 782; Pub. L. 99–576, title III, § 310(b)(1), Oct. 28, 1986, 100 Stat. 3271; Pub. L. 100–689, title I, §§ 108(b)(2), 122, Nov. 18, 1988, 102 Stat. 4170, 4174; Pub. L. 101–237, title IV, § 423(b)(1), (4)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–16, § 7(b), Mar. 22, 1991, 105 Stat. 51; renumbered § 3231 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–127, § 2(b), Oct. 10, 1991, 105 Stat. 619; Pub. L. 102–568, title III, § 310(c), Oct. 29, 1992, 106 Stat. 4330; Pub. L. 104–275, title I, § 105(b), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 105–368, title X, § 1005(b)(7), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107–103, title I, § 103(a), (d), Dec. 27, 2001, 115 Stat. 979.)

AMENDMENTS

2001—Subsec. (a)(5)(B)(i). Pub. L. 107–103, § 103(a), substituted ''to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;'' for '', in connection with the Persian Gulf War, to serve on active duty under section 672(a), (d), or (g), 673, 673b, or 688 of title 10;''.

Subsec. (a)(5)(B)(ii). Pub. L. 107–103, § 103(d), struck out '', in connection with such War,'' after ''being ordered''.

1998—Subsec. (a)(2). Pub. L. 105–368 substituted ''subsection (e)'' for ''subsection (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 benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

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

1992—Subsec. (f)(1). Pub. L. 102–568, § 310(c)(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(c)(2), added par. (4).

1991—Pub. L. 102–83, § 5(a), renumbered section 1631 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3695'' for ''1795''.

Subsec. (a)(2). Pub. L. 102–127, § 2(b)(2), inserted ''in paragraph (5)(E) of this subsection and'' after ''Except as provided''.

Pub. L. 102–83, § 5(c)(1), substituted ''3233'' for ''1633'' and ''3241'' for ''1641''.

Pub. L. 102–16, § 7(b)(1), inserted ''subsection (f) of this section and'' after ''Except as provided in''.

Subsec. (a)(5). Pub. L. 102–127, § 2(b)(1), added par. (5).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3491(a)'' for ''1691(a)''.

Subsec. (e)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3233'' for ''1633''.

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted ''3241(b)'' for ''1641(b)'' in par. (1).

Pub. L. 102–16, § 7(b)(2), added subsec. (f).

1989—Subsec. (a)(1). Pub. L. 101–237, § 423(b)(1)(B), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (a)(2)(C). Pub. L. 101–237, § 423(b)(4)(A), inserted ''of Defense'' after ''Secretary''.

Subsec. (e)(1). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (d). Pub. L. 100–689, § 108(b)(2), added subsec. (d).

Subsec. (e). Pub. L. 100–689, § 122, added subsec. (e).

1986—Subsec. (a)(2). Pub. L. 99–576 substituted ''Except as provided in section 1633 of this title and subject to section 1641 of this title, the'' for ''The''.

1981—Subsec. (c). Pub. L. 97–35, § 2003(a)(1), struck out applicability to a program of flight training.

Subsec. (d). Pub. L. 97–35, § 2005(a), struck out subsec. (d) which related to eligibility of veterans for loans authorized by subchapter III of chapter 36 of this title.

1980—Subsec. (a)(1). Pub. L. 96–466, § 404, inserted reference to provisions of section 1795 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 Veterans' Administration, and substituted reference to part-time benefits, for reference to part-time benefit payments.

Subsec. (b). Pub. L. 96–466, § 403, substituted reference to enrolling in a course, courses, or program of education for the purpose of attaining a secondary school diploma or an equivalency certificate during the last six months of such member's first enlistment and at any time thereafter, for reference to participating in the Predischarge Education Program authorized by subchapter VI of chapter 34 of this title during the last 6 months of such member's first enlistment.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107–103, set out as a note under section 3013 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–568 applicable to flight training received under this chapter, chapter 30 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 1991 AMENDMENT

Section 7(c) of Pub. L. 102–16 provided that: ''The amendments made by this section [amending this section and section 1641 [now 3241] of this title] shall take effect on April 1, 1991.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 108(b)(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.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2006 of Pub. L. 97–35 provided that:

''(a) Except as provided in subsection (b), the amendments made by sections 2003 [amending this section and sections 1641, 1662, 1673, 1681, 1682, and 1780 [now 3241, 3462, 3473, 3481, 3482, and 3680] of this title and repealing section 1677 of this title] and 2005 [amending this section and sections 1686 [repealed], 1737 [repealed], and 1798 [now 3698] of this title] shall take effect on October 1, 1981.

''(b) The amendments made by such sections shall not apply to any person receiving educational assistance under section 1677 [now 3477] of title 38, United States Code, as such section was in effect on August 31, 1981, for the pursuit of a program of education (as defined in section 1652(b) [now 3452(b)] of such title) in which such person was enrolled on that date, for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of chapters 34 and 36 of such title, as in effect on that date.''

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.

§ 3232. Duration; limitations

(a)(1) Except as provided in paragraphs (2) and (3), and subject to paragraph (4), of this subsection, educational assistance benefits shall

not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty.

(2)(A) If any eligible veteran was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under paragraph (1) of this subsection because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made in accordance with subparagraph (B) of this paragraph, be granted an extension of the applicable delimiting period for such length of time as the Secretary determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education.

(B) An extension of the delimiting period applicable to an eligible veteran may be granted under subparagraph (A) of this paragraph by reason of the veteran's mental or physical disability only if the veteran submits an application for such extension to the Secretary within one year after (i) the last date of the delimiting period otherwise applicable to the veteran under paragraph (1) of this subsection, or (ii) the termination date of the period of the veteran's mental or physical disability, whichever is later.

(3) When an extension of the applicable delimiting period is granted an eligible veteran under paragraph (2) of this subsection, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the Secretary, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(4) For purposes of paragraph (1) of this subsection, a veteran'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.

(b)(1) In the event that an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the delimiting period applicable to the veteran under subsection (a) of this section and at the end of one year thereafter has not filed a claim for utilizing such entitlement, such eligible veteran is automatically disenrolled.

(2)(A) Any contributions which were made by a veteran disenrolled under paragraph (1) of this subsection and remain in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund.

(B) If no application for refund of contributions under subparagraph (A) of this paragraph is received from a disenrolled veteran within one year after the date the notice referred to in such subparagraph is transmitted to the veteran, it shall be presumed that the veteran's whereabouts is unknown and the funds shall be transferred to the Secretary for payments for entitlement earned under subchapter II of chapter 30.

(c)(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 paid to such individual for such test by the full-time monthly institutional rate of the educational assistance allowance which, except for paragraph (1), such individual would otherwise be paid under this chapter.

(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.

(d)(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 this chapter.

(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. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396, § 1632; amended Pub. L. 97–258, § 3(k)(2), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 98–160, title VII, § 702(8), Nov. 21, 1983, 97 Stat 1009; Pub. L. 99–576, title III, § 311, Oct. 28, 1986, 100 Stat. 3272; Pub. L. 101–237, title IV, §§ 420(a)(2), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2087, 2092; Pub. L. 102–16, § 4, Mar. 22, 1991, 105 Stat. 49; renumbered § 3232 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 106(c)(1), Oct. 9, 1996, 110 Stat. 3329; Pub. L. 106–419, title I, § 122(b)(2), Nov. 1, 2000, 114 Stat. 1834; Pub. L. 108–454, title I, § 106(b)(2), Dec. 10, 2004, 118 Stat. 3603.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–454 added subsec. (d).

2000—Subsec. (c). Pub. L. 106–419 added subsec. (c).

1996—Subsec. (b)(2)(B). Pub. L. 104–275 struck out ", for the purposes of section 1322(a) of title 31," after "it shall be presumed" and substituted "to the Secretary for payments for entitlement earned under subchapter II of chapter 30" for "as provided in such section".

1991—Pub. L. 102–83, § 5(a), renumbered section 1632 of this title as this section.

Subsec. (a)(4). Pub. L. 102–83, § 5(c)(1), substituted "3011(a)(1)(A)(ii)(III)" for "1411(a)(1)(A)(ii)(III)".

Subsec. (b)(1). Pub. L. 102–16 inserted before comma ''and at the end of one year thereafter has not filed a claim for utilizing such entitlement''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 420(a)(2)(B), inserted '', and subject to paragraph (4),'' before ''of this subsection''.

Subsec. (a)(2), (3). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (a)(4). Pub. L. 101–237, § 420(a)(2)(A), added par. (4).

1986—Pub. L. 99–576 amended section generally. Prior to amendment, section read as follows: ''No educational assistance benefits shall be afforded an eligible veteran under this chapter beyond the date of 10 years after such veteran's last discharge or release from active duty. In the event an eligible veteran has not utilized any or all of such veterans' entitlement by the end of the 10-year period, such eligible veteran is automatically disenrolled and any contributions made by such veteran remaining in the fund shall be refunded to the veteran following notice to the veteran and an application by the veteran for such refund. If no application is received within 1 year from date of notice, it will be presumed for the purposes of section 1322(a) of title 31 that the individual's whereabouts is unknown and the funds shall be transferred as directed in such section.''

1983—Pub. L. 98–160 struck out the comma after ''title 31'' and substituted ''such section'' for ''section 1322(a)''.

1982—Pub. L. 97–258 substituted ''section 1322(a) of title 31'' and ''section 1322(a)'' for ''subsection (a) of section 725s of title 31'' and ''the last proviso of that subsection'', respectively.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as a note under section 3032 of this title.

§ 3233. Apprenticeship or other on-job training

(a) Except as provided in subsection (b) of this section, the amount of the monthly benefit payment to an individual pursuing a full-time program of apprenticeship or other on-job training under this chapter is—

(1) for each of the first six months of the individual's pursuit of such program, 75 percent of the monthly benefit payment otherwise payable to such individual under this chapter;

(2) for each of the second six months of the individual's pursuit of such program, 55 percent of such monthly benefit payment; and

(3) for each of the months following the first 12 months of the individual's pursuit of such program, 35 percent of such monthly benefit payment.

(b) 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 the monthly benefit payment payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under subsection (a) of this section as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(c) For each month that an individual is paid a monthly benefit payment under this chapter, the individual's entitlement under this chapter shall be charged at the rate of—

(1) 75 percent of a month in the case of payments made in accordance with subsection (a)(1) of this section;

(2) 55 percent of a month in the case of payments made in accordance with subsection (a)(2) of this section; and

(3) 35 percent of a month in the case of payments made in accordance with subsection (a)(3) of this section.

(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly benefit payment payable is reduced under subsection (b) of this section.

(Added Pub. L. 99–576, title III, § 310(b)(2), Oct. 28, 1986, 100 Stat. 3271, § 1633; amended Pub. L. 101–237, title IV, § 423(a)(7), Dec. 18, 1989, 103 Stat. 2091; renumbered § 3233, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1633 of this title as this section.

1989—Subsec. (d). Pub. L. 101–237 added subsec. (d).

INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING; POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

Pub. L. 108–454, title I, § 103(b), Dec. 10, 2004, 118 Stat. 3600, provided that: ''For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (a) of section 3233 of title 38, United States Code, shall be applied as if—

''(1) the reference to '75 percent' in paragraph (1) were a reference to '85 percent';

''(2) the reference to '55 percent' in paragraph (2) were a reference to '65 percent'; and

''(3) the reference to '35 percent' in paragraph (3) were a reference to '45 percent'.''

§ 3234. Tutorial assistance

(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 3492 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

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

(c) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(d) Payments of benefits under this section 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 the fund from contributions made to the fund by the veteran and by the Secretary of Defense in

the same proportion as these contributions are used to pay other educational assistance to the individual under this chapter.

(Added Pub. L. 100–689, title I, § 107(b)(1), Nov. 18, 1988, 102 Stat. 4168, § 1634; amended Pub. L. 101–237, title IV, § 423(b)(1)(B), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3234 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 1634 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3492'' for ''1692''.

1989—Subsec. (d)(1). Pub. L. 101–237 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

SUBCHAPTER IV—ADMINISTRATION

§ 3241. Requirements

(a)(1) The provisions of sections 3470, 3471, 3474, 3476, 3483, 3485, and 3491(a)(1) of this title and the provisions of chapter 36 of this title (with the exception of section 3687) shall be applicable with respect to individuals who are pursuing programs of education while serving on active duty.

(2) 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) 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 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 meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

(c) The provisions of sections 3470, 3471, 3474, 3476, 3483, and 3491(a) (other than clause (1)) of this title and the provisions of chapter 36 of this title (with the exception of section 3687) shall be applicable with respect to individuals who are pursuing programs of education following discharge or release from active duty.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397, § 1641; amended Pub. L. 96–466, title IV, § 405, Oct. 17, 1980, 94 Stat. 2202; Pub. L. 97–35, title XX, § 2003(a)(2), Aug. 13, 1981, 95 Stat. 782; Pub. L. 99–576, title III, §§ 308(b), 310(c), Oct. 28, 1986, 100 Stat. 3270, 3272; Pub. L. 100–689, title I, § 106(b), Nov. 18, 1988, 102 Stat. 4167; Pub. L. 101–237, title IV, § 423(a)(5)(B), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2091, 2092; Pub. L. 102–16, §§ 2(b)(2), 7(a), Mar. 22, 1991, 105 Stat. 49, 51; renumbered § 3241 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 313(a)(5), Oct. 29, 1992, 106 Stat. 4332; Pub. L. 103–446, title VI, § 601(b), title XII, § 1201(d)(12), Nov. 2, 1994, 108 Stat. 4670, 4684; Pub. L. 105–368, title II, § 204(a), Nov. 11, 1998, 112 Stat. 3327.)

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–368 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''.

1994—Subsec. (b). Pub. L. 103–446, § 601(b), 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.''

Subsec. (c). Pub. L. 103–446, § 1201(d)(12), struck out ''1663,'' after ''sections''.

1992—Subsec. (a)(1). Pub. L. 102–568, § 313(a)(5)(A), struck out ''3473,'' after ''3471,''.

Subsec. (b)(1). Pub. L. 102–568, § 313(a)(5)(B), substituted ''3680A(b)'' for ''3473(b)''.

Subsec. (c). Pub. L. 102–568, § 313(a)(5)(A), struck out ''3473,'' after ''3471,''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1641 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3470, 3471, 3473, 3474, 3476, 3483, 3485, and 3491(a)(1)'' for ''1670, 1671, 1673, 1674, 1676, 1683, 1685, and 1691(a)(1)'' and ''3687'' for ''1787''.

Pub. L. 102–16, § 2(b)(2), struck out ''1663,'' before ''1670,''.

Subsec. (a)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3471'' for ''1671''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3473(b)'' for ''1673(b)'' in par. (1).

Pub. L. 102–16, § 7(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3470, 3471, 3473, 3474, 3476, 3483, and 3491(a)'' for ''1670, 1671, 1673, 1674, 1676, 1683, and 1691(a)'' and ''3687'' for ''1787''.

Pub. L. 102–16, § 7(a)(1), redesignated subsec. (b) as (c).

1989—Subsec. (a)(2). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 423(a)(5)(B), substituted ''employment during and since the period of such veteran's active military service)'' for ''employment)''.

1988—Subsec. (a). Pub. L. 100–689, § 106(b)(1), designated existing provision as par. (1) and added par. (2).

Subsec. (b). Pub. L. 100–689, § 106(b)(2), substituted ''1691(a) (other than clause (1))'' for ''1691(a)(1)''.

1986—Subsec. (a). Pub. L. 99–576, §§ 308(b), 310(c)(1), (2), designated existing provisions as subsec. (a), substituted ''section 1787) shall be applicable with respect to individuals who are pursuing programs of education while serving on active duty'' for ''sections 1777, 1780(c), and 1787) shall be applicable to the program'', and inserted ''1685,'' after ''1683,''.

Subsec. (b). Pub. L. 99–576, § 310(c)(3), added subsec. (b).

1981—Pub. L. 97–35 struck out references to sections 1677 and 1681(c) of this title.

1980—Pub. L. 96–466 inserted ''1663,'' before ''1670,'' and substituted ''and 1691(a)(1)'' for ''1696, and 1698''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 601(b) of Pub. L. 103–446 effective Oct. 1, 1994, see section 601(d) of Pub. L. 103–446, set out as a note under section 3034 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by section 7(a) of Pub. L. 102–16 effective Apr. 1, 1991, see section 7(c) of Pub. L. 102–16, set out as a note under section 3231 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–689 effective Aug. 15, 1989, see section 106(d) of Pub. L. 100–689, set out as a note under section 3034 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, except as otherwise provided, see section 2006 of Pub. L. 97–35, set out as a note under section 3231 of this title.

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.

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.

[§ 3242. Vacant]

CODIFICATION

Prior to redesignation of sections 1601 to 1643 of this chapter as sections 3201 to 3243 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1642 of this chapter, added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397, and amended Pub. L. 97–295, § 4(37), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 101–237, title IV, § 423(b)(1)(A), (4)(A), Dec. 18, 1989, 103 Stat. 2092, was repealed by Pub. L. 102–16, § 5(a), Mar. 22, 1991, 105 Stat. 50.

§ 3243. Deposits; reports

Deductions made by the Department of Defense from the military pay of any participant shall be promptly transferred to the Secretary for deposit in the fund. The Secretary of Defense shall also submit to the Secretary a report each month showing the name, service number, and the amount of the deduction made from the military pay of each initial enrollee, any contribution made by the Secretary of Defense pursuant to section 3222(c) of this title, as well as any changes in each participant's enrollment and/or contribution. The report shall also include any additional information the Secretary and the Secretary of Defense deem necessary to administer this program. The Secretary shall maintain accounts showing contributions made to the fund by individual participants and by the Secretary of Defense as well as disbursements made from the fund in the form of benefits.

(Added Pub. L. 94–502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2397, § 1643; amended Pub. L. 98–160, title VII, § 702(9), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 101–237, title IV, § 423(b)(1)(A), (4)(D), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3243 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Prior sections 3301 to 3305 and 3311 to 3313, which comprised chapter 57, were renumbered sections 5701 to 5705 and 5711 to 5713, respectively, of this title.

Prior sections 3401 to 3405, which comprised chapter 59, were renumbered sections 5901 to 5905, respectively, of this title.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1643 of this title as this section and substituted ''3222(c)'' for ''1622(c)''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing and inserted ''of Defense'' after ''Secretary'' in four places.

1983—Pub. L. 98–160 inserted ''of this title'' after ''section 1622(c)''.

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE—DEFINITIONS

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AMENDMENTS

1992—Pub. L. 102–568, title III, § 313(a)(3)(B), Oct. 29, 1992, 106 Stat. 4332, struck out item 3473 ''Disapproval of enrollment in certain courses''.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1651 to 1693 as 3451 to 3493, respectively.

Pub. L. 102–16, § 2(b)(1)(B), Mar. 22, 1991, 105 Stat. 49, struck out item 1663 ''Educational and vocational counseling''.

1989—Pub. L. 101–237, title IV, § 405(d)(4)(B), Dec. 18, 1989, 103 Stat. 2082, substituted ''Work-study allowance'' for ''Veteran-student services'' in item 1685.

1988—Pub. L. 100–689, title I, §§ 107(c)(2)(B), 124(c)(1), Nov. 18, 1988, 102 Stat. 4169, 4175, substituted ''Tutorial

assistance'' for ''Special supplementary assistance'' in item 1692 and struck out items 1682A ''Accelerated payment of educational assistance allowances'' and 1686 ''Education loans''.

1981—Pub. L. 97–35, title XX, § 2003(b)(3)(B), Aug. 13, 1981, 95 Stat. 782, struck out item 1677 ''Flight training''.

1980—Pub. L. 96–466, title VI, § 601(a)(2), Oct. 17, 1980, 94 Stat. 2208, struck out ''SUBCHAPTER VI—PRE-DISCHARGE EDUCATION PROGRAM'' heading and items 1695 ''Purpose; definition'', 1696 ''Payment of educational assistance allowance'', 1697 ''Educational and vocational guidance'', and 1698 ''Coordination with and participation by Department of Defense''.

1977—Pub. L. 95–202, title II, § 201(c)(1), Nov. 23, 1977, 91 Stat. 1438, added item 1682A.

1976—Pub. L. 94–502, title II, § 210(4), Oct. 15, 1976, 90 Stat. 2388, renumbered item 1697A as 1698.

1974—Pub. L. 93–508, title III, § 302(b), Dec. 3, 1974, 88 Stat. 1591, added item 1686.

1972—Pub. L. 92–540, title IV, § 404(a), Oct. 24, 1972, 86 Stat. 1090, inserted in Subchapter IV heading ''VETERAN-STUDENT SERVICES'', and substituted in item 1683 ''Approval of courses'' for ''Apprenticeship or other on-job training''; in item 1684 ''Apprenticeship or other on-job training; correspondence courses'' for ''Measurement of courses'', and in item 1685 ''Veteran-student services'' for ''Overcharges by educational institutions'', struck out item 1672 ''Change of program'', item 1675 ''Period of operation for approval'', item 1686 ''Approval of courses'', and item 1687 ''Discontinuance of allowances'', and added item 1697A.

1970—Pub. L. 91–219, title II, § 204(b), Mar. 26, 1970, 84 Stat. 81, struck out item 1678 ''Special training for the educationally disadvantaged'' and added subchapters V and VI.

1967—Pub. L. 90–77, title III, §§ 302(c), 304(b), 306(b)(1), Aug. 31, 1967, 81 Stat. 185, 186, 188, added items 1677, 1678, and 1683, and renumbered former items 1683 to 1686 as 1684 to 1687, respectively.

1966—Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 12, added ''CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE''.

SUBCHAPTER I—PURPOSE—DEFINITIONS

§ 3451. Purpose

The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 12, § 1651; renumbered § 3451, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising clauses (3) and (4) of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1175, which was classified to former section 1601(c) of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1651 of this title as this section.

EFFECTIVE DATE

Section 12(a) of Pub. L. 89–358 provided that: ''Except as otherwise specifically provided, the provisions of this Act [see Tables for classification] shall take effect on the date of its enactment [Mar. 3, 1966], but no educational assistance allowance shall be payable under chapter 34 of title 38, United States Code, as added by section 2 of this Act, for any period before June 1, 1966, nor for the month of June 1966, unless (1) the eligible veteran commenced the pursuit of the course of education on or after June 1, 1966, or (2) the pursuit of such course continued through June 30, 1966.''

SAVINGS PROVISION

Section 4(b) of Pub. L. 89–358 provided that: ''Nothing in this Act or any amendment or repeal made by it [see Tables for classification], shall affect any right or liability (civil or criminal) which matured under chapter 33 of this title 38 before the date of enactment of this Act [Mar. 3, 1966]: and all offenses committed, and all penalties and forfeitures incurred, under any provision of law amended or repealed by this Act, may be punished or recovered, as the case may be, in the same manner and with the same effect as if such amendments or repeals had not been made.''

§ 3452. Definitions

For the purposes of this chapter and chapter 36 of this title—

(a)(1) The term ''eligible veteran'' means any veteran who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and before January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable;

(B) contracted with the Armed Forces and was enlisted in or assigned to a reserve component prior to January 1, 1977, and as a result of such enlistment or assignment served on active duty for a period of more than 180 days, any part of which commenced within 12 months after January 1, 1977, and was discharged or released from such active duty under conditions other than dishonorable; or

(C) was discharged or released from active duty, any part of which was performed after January 31, 1955, and before January 1, 1977, or following entrance into active service from an enlistment provided for under subparagraph (B), because of a service-connected disability.

(2) The requirement of discharge or release, prescribed in subparagraph (A) or (B) of paragraph (1), shall be waived in the case of any individual who served more than 180 days in an active-duty status for so long as such individual continues on active duty without a break therein.

(3) For purposes of paragraph (1)(A) and section 3461(a), the term ''active duty'' does not include any period during which an individual (A) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (B) served as a cadet or midshipman at one of the service academies, or (C) served under the provisions of section 12103(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Ma-

rine Corps Reserve, or Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a consecutive period of one year or more (not including any service as a cadet or midshipman at one of the service academies).

(b) The term ''program of education'' means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1)). Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title. Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses. Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the Scholastic Aptitude Test (SAT), Law School Admission Test (LSAT), Graduate Record Exam (GRE), and Graduate Management Admission Test (GMAT)) and national tests providing an opportunity for course credit at institutions of higher learning (such as the Advanced Placement (AP) exam and College-Level Examination Program (CLEP)).

(c) The term ''educational institution'' means any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or other institution furnishing education for adults. Such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary). Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary). Such term also includes any qualified provider of entrepreneurship courses.

(d) The term ''dependent'' means—

(1) a child of an eligible veteran;

(2) a dependent parent of an eligible veteran; and

(3) the spouse of an eligible veteran.

(e) The term ''training establishment'' means any of the following:

(1) An establishment providing apprentice or other on-job training, including those under the supervision of a college or university or any State department of education.

(2) An establishment providing self-employment on-job training consisting of full-time training for a period of less than six months that is needed or accepted for purposes of obtaining licensure to engage in a self-employment occupation or required for ownership and operation of a franchise that is the objective of the training.

(3) A State board of vocational education.

(4) A Federal or State apprenticeship registration agency.

(5) The sponsor of a program of apprenticeship.

(6) An agency of the Federal Government authorized to supervise such training.

(f) The term ''institution of higher learning'' means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree. Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

(g) The term ''standard college degree'' means an associate or higher degree awarded by (1) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (2) an institution of higher learning that is a ''candidate'' for accreditation as that term is used by the regional or national accrediting agencies; or (3) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Secretary of Education under the provisions of section 3675 of this title.

(h) The term ''qualified provider of entrepreneurship courses'' means any of the following

entities insofar as such entity offers, sponsors, or cosponsors an entrepreneurship course (as defined in section 3675(c)(2) of this title):

(1) Any small business development center described in section 21 of the Small Business Act (15 U.S.C. 648).

(2) The National Veterans Business Development Corporation (established under section 33 of the Small Business Act (15 U.S.C. 657c)).

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 13, § 1652; amended Pub. L. 90–77, title III, § 304(c), Aug. 31, 1967, 81 Stat. 186; Pub. L. 91–219, title II, § 201, Mar. 26, 1970, 84 Stat. 78; Pub. L. 91–584, § 10, Dec. 24, 1970, 84 Stat. 1577; Pub. L. 93–508, title II, § 201, Dec. 3, 1974, 88 Stat. 1581; Pub. L. 94–502, title II, §§ 202, 210(1), 211(1), title IV, § 402, Oct. 15, 1976, 90 Stat. 2385, 2388, 2392; Pub. L. 96–466, title III, § 307(a), title VIII, § 801(a), Oct. 17, 1980, 94 Stat. 2193, 2216; Pub. L. 97–295, § 4(38), Oct. 12, 1982, 96 Stat. 1307; renumbered § 3452 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 603(a), Nov. 2, 1994, 108 Stat. 4671; Pub. L. 104–275, title I, § 102, Oct. 9, 1996, 110 Stat. 3326; Pub. L. 106–419, title I, § 122(a), Nov. 1, 2000, 114 Stat. 1833; Pub. L. 107–14, § 8(a)(4), June 5, 2001, 115 Stat. 34; Pub. L. 107–103, title I, § 110(a), Dec. 27, 2001, 115 Stat. 986; Pub. L. 108–183, title III, § 301(a), § 305(c)–(e), Dec. 16, 2003, 117 Stat. 2658, 2660; Pub. L. 108–454, title I, §§ 106(a), 110(a), Dec. 10, 2004, 118 Stat. 3602, 3605.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (d) of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1174, 1176, which was classified to former sections 1601(a)(2) and 1611(a)(1), and 1601(a)(3), (5), and (6) of this title, respectively, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–454, § 106(a), inserted at end "Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the Scholastic Aptitude Test (SAT), Law School Admission Test (LSAT), Graduate Record Exam (GRE), and Graduate Management Admission Test (GMAT)) and national tests providing an opportunity for course credit at institutions of higher learning (such as the Advanced Placement (AP) exam and College-Level Examination Program (CLEP))."

Subsec. (e)(5). Pub. L. 108–454, § 110(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "A joint apprenticeship committee established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.)."

2003—Subsec. (b). Pub. L. 108–183, § 305(c), inserted at end "Such term also includes any course, or combination of courses, offered by a qualified provider of entrepreneurship courses."

Subsec. (c). Pub. L. 108–183, § 305(d), inserted at end "Such term also includes any qualified provider of entrepreneurship courses."

Subsec. (e). Pub. L. 108–183, § 301(a), substituted "means any of the following:" and pars. (1) to (6) for "means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board or vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.), or any agency of the Federal Government authorized to supervise such training."

Subsec. (h). Pub. L. 108–183, § 305(e), added subsec. (h).

2001—Subsec. (a)(1)(A). Pub. L. 107–14, § 8(a)(4)(A)(i), struck out "or" at end.

Subsec. (a)(1)(C). Pub. L. 107–14, § 8(a)(4)(A)(ii), substituted "subparagraph (B)" for "clause (B) of this paragraph".

Subsec. (a)(2). Pub. L. 107–14, § 8(a)(4)(B), substituted "subparagraph (A) or (B) of paragraph (1)" for "paragraph (1)(A) or (B)" and "180 days" for "one hundred and eighty days".

Subsec. (a)(3). Pub. L. 107–14, § 8(a)(4)(C), substituted "section 12103(d) of title 10" for "section 511(d) of title 10".

Subsec. (c). Pub. L. 107–103 inserted at end "Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary)."

Subsec. (e). Pub. L. 107–14, § 8(a)(4)(D), substituted "the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.),'' for "chapter 4C of title 29,".

2000—Subsec. (b). Pub. L. 106–419 inserted at end "Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title."

1996—Subsec. (c). Pub. L. 104–275 substituted "Such" for "For the period ending on September 30, 1996, such".

1994—Subsec. (c). Pub. L. 103–446 inserted at end "For the period ending on September 30, 1996, such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary)."

1991—Pub. L. 102–83, § 5(a), renumbered section 1652 of this title as this section.

Subsec. (a)(3). Pub. L. 102–83, § 5(c)(1), substituted "3461(a)" for "1661(a)".

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted "3675" for "1775".

1982—Subsec. (b). Pub. L. 97–295 substituted "section 7(i)(1) of the Small Business Act (15 U.S.C. 636(i)(1))" for "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))".

1980—Pub. L. 96–466, § 801(a)(1), inserted "and chapter 36 of this title" after "chapter" in introductory text.

Subsec. (e). Pub. L. 96–466, § 801(a)(2), substituted "The" for "For the purposes of this chapter and chapter 36 of this title, the".

Subsec. (f). Pub. L. 96–466, §§ 307(a), 801(a)(2), substituted "The" for "For the purposes of this chapter and chapter 36 of this title, the" and inserted provision including within "institution of higher learning" an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

Subsec. (g). Pub. L. 96–466, § 801(a)(2), (3), substituted "The" for "For the purposes of this chapter and chapter 36 of this title, the" and "Secretary of Education" for "Commissioner of Education".

1976—Subsec. (a)(1). Pub. L. 94–502, § 402(1), restricted the definition of an eligible veteran to a veteran who commenced his active duty requirement after Jan. 31, 1955 but before Jan. 1, 1977, with the exception of a vet-

eran who enlisted or was assigned to a reserve component before Jan. 1, 1977 and commenced his active duty requirement within 12 months following Jan. 1, 1977.

Subsec. (a)(2). Pub. L. 94–502, §§211(1), 402(2), substituted ''such individual'' for ''he'' and inserted ''or (B)'' after ''paragraph (1)(A)''.

Subsec. (d)(3). Pub. L. 94–502, §211(1), substituted ''spouse'' for ''wife''.

Subsec. (e). Pub. L. 94–502, §210(1), struck out ''United States Code,'' after ''chapter 4C of title 29,''.

Subsecs. (f), (g). Pub. L. 94–502, §202, added subsecs. (f) and (g).

1974—Subsec. (a)(3). Pub. L. 93–508 substituted ''Coast Guard Reserve unless at some time subsequent to the completion of such period of active duty for training such individual served on active duty for a consecutive period of one year or more (not including any service as a cadet or midshipman at one of the service academies)'' for ''Coast Guard Reserve''.

1970—Subsec. (a)(2). Pub. L. 91–584, §10(1), substituted ''more than one hundred eighty days'' for ''at least two years''.

Subsec. (b). Pub. L. 91–584, §10(2), expanded the definition of ''program of education'' to include unit course or subject, or combination of courses or subjects, pursued by eligible veterans at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under section 2902(a) of title 42.

Pub. L. 91–219, §201(a), provided that a program of education may include more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to single career field.

Subsec. (c). Pub. L. 91–219, §201(b), included within the term ''educational institution'' any public or private ''elementary'' school, and substituted ''other institution furnishing education for adults'', for ''any other institution if it furnishes education at the secondary school level or above''.

1967—Subsec. (e). Pub. L. 90–77 added subsec. (e).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title III, §301(b), Dec. 16, 2003, 117 Stat. 2658, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on the date that is six months after the date of the enactment of this Act [Dec. 16, 2003] and shall apply to self-employment on-job training approved and pursued on or after that date.''

Pub. L. 108–183, title III, §305(f), Dec. 16, 2003, 117 Stat. 2661, provided that: ''The amendments made by this section [amending this section and sections 3471 and 3675 of this title] shall apply to courses approved by State approving agencies after the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title I, §110(b), Dec. 27, 2001, 115 Stat. 986, provided that: ''The amendments made by subsection (a) [amending this section and section 3501 of this title] shall apply to enrollments in courses beginning on or after the date of the enactment of this Act [Dec. 27, 2001].''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as a note under section 3032 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(c) of Pub. L. 96–466 provided that:

''(1) Except as provided in paragraph (2), the amendments made by title III [see Tables for classification] shall become effective on October 1, 1980.

''(2) Paragraph (2) of section 1691(a) [probably means 1691(b), now 3491(b)] of title 38, United States Code, as added by section 311(2), shall not apply to any person receiving educational assistance under chapter 34 of title 38, United States Code, on October 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) [now 3452(b)] of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for pursuit of such program.''

Section 802(h) of Pub. L. 96–466 provided that: ''Section 801 [see Tables for classification] shall become effective on October 1, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 202, 210(1), and 211(1) of Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

Amendment by section 402 of Pub. L. 94–502 effective Jan. 1, 1977, see section 406 of Pub. L. 94–502, set out as an Effective Date note under section 3201 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 503 of Pub. L. 93–508 provided that: ''Titles II and IV of this Act [see Tables for classification] shall become effective on the date of their enactment [Dec. 3, 1974].''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 3461. Eligibility; entitlement; duration

Entitlement

(a) Except as provided in subsection (c) and in the second sentence of this subsection, each eligible veteran shall be entitled to educational assistance under this chapter or chapter 36 for a period of one and one-half months (or the equivalent thereof in part-time educational assistance) for each month or fraction thereof of the veteran's service on active duty after January 31, 1955. If an eligible veteran has served a period of 18 months or more on active duty after January 31, 1955, and has been released from such service under conditions that would satisfy the veteran's active duty obligation, the veteran shall be entitled to educational assistance under this chapter for a period of 45 months (or the equivalent thereof in part-time educational assistance). In the case of any person serving on active duty on December 31, 1976, or a person whose eligibility is based on section 3452(a)(1)(B) of this chapter, the ending date for computing such person's entitlement shall be the date of such person's first discharge or release from active duty after December 31, 1976.

Entitlement Limitations

(b) Whenever the period of entitlement under this section of an eligible veteran who is enrolled in an educational institution regularly operated on the quarter or semester system ends during a quarter or semester, such period shall be extended to the termination of such unexpired quarter or semester. In educational institutions not operated on the quarter or semester system, whenever the period of eligibility ends after a major portion of the course is completed such period shall be extended to the end of the course or for twelve weeks, whichever is the lesser period.

(c) Except as provided in subsection (b) and in subchapter V of this chapter, no eligible veteran shall receive educational assistance under this chapter in excess of 45 months.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 13, § 1661; amended Pub. L. 90–77, title III, § 306(b)(2), Aug. 31, 1967, 81 Stat. 188; Pub. L. 90–631, § 1(b), Oct. 23, 1968, 82 Stat. 1331; Pub. L. 91–219, title II, § 204(a)(1), Mar. 26, 1970, 84 Stat. 79; Pub. L. 92–540, title IV, § 401(1), Oct. 24, 1972, 86 Stat. 1089; Pub. L. 93–508, title II, § 202, Dec. 3, 1974, 88 Stat. 1581; Pub. L. 94–502, title II, §§ 203, 211(2), title IV, § 403(a), Oct. 15, 1976, 90 Stat. 2386, 2388, 2393; Pub. L. 96–466, title VI, § 601(b), Oct. 17, 1980, 94 Stat. 2208; renumbered § 3461 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) to (c) of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1176, which was classified to former sections 1610 and 1611(a), 1611(a)(2), (3), and 1611(b) of this title, respectively, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1661 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "3452(a)(1)(B)" for "1652(a)(1)(B)".

1980—Subsec. (c). Pub. L. 96–466 substituted "subchapter V of this chapter" for "subchapters V and VI of this chapter".

1976—Subsec. (a). Pub. L. 94–502, §§ 203(1), 211(2), 403(a), substituted "45 months" for "36 months", "the veteran's" for "his" in two places, and "the veteran" for "he", inserted provision establishing the final date of entitlement for person serving on active duty on Dec. 31, 1976 or whose eligibility is based on section 1652(a)(1)(B) of this title as the date of discharge or release from active duty after Dec. 31, 1976, and struck out provision which authorized an additional number of months not exceeding nine to be used for a program leading to a standard undergraduate degree.

Subsec. (c). Pub. L. 94–502, § 203(2), substituted "subsection (b)" for "subsections (a) and (b)" and "45 months" for "thirty-six months".

1974—Subsec. (a). Pub. L. 93–508, § 202(1), inserted "plus an additional number of months, not exceeding nine, as may be utilized in pursuit of a program of education leading to a standard undergraduate college degree".

Subsec. (c). Pub. L. 93–508, § 202(2), inserted reference to subsec. (a).

1972—Subsec. (a). Pub. L. 92–540 inserted reference to chapter 36.

1970—Subsec. (c). Pub. L. 91–219 substituted "subchapters V and VI of this chapter" for "section 1678 of this title".

1968—Subsec. (a). Pub. L. 90–631, § 1(b)(1), substituted references to subsec. (c) and the second sentence of this subsec. for reference to subsec. (b), increased from one month to one and one-half months the amount of educational assistance each eligible veteran shall receive for each month or fraction thereof of active duty service after Jan. 31, 1955, and inserted provisions that an eligible veteran who has served 18 months or more on active duty after Jan. 31, 1955, and has been released under conditions that would satisfy his active duty obligation, shall be entitled to educational assistance under this chapter for a period of 36 months.

Subsec. (b). Pub. L. 90–631, § 1(b)(2), (3), redesignated subsec. (c) as (b). Former subsec. (b), which set forth entitlement limitations on the amount of educational assistance an eligible veteran, shall receive under this chapter, was struck out.

Subsec. (c). Pub. L. 90–631, § 1(b), (3), (4), added subsec. (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 90–631, § 1(b)(2), struck out subsec. (d) which required an eligible veteran to elect either educational assistance or vocational rehabilitation when such veteran is entitled to both, or becomes entitled to vocational rehabilitation after receiving educational assistance.

1967—Subsec. (b). Pub. L. 90–77 inserted "and in section 1678 of this chapter" after "subsection (c)".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 203 and 211(2) of Pub. L. 94–502 effective Oct. 1, 1976, and Oct. 15, 1976, respectively, see section 703(a), (b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

Amendment by section 403(a) of Pub. L. 94–502 effective Jan. 1, 1977, see section 406 of Pub. L. 94–502, set out as a note under section 3201 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–631 effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as an Effective Date note under section 3500 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 3462. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) Subject to paragraph (4) of this subsection, no educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955; except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made within one year after (A) the last date of the delimit-

ing period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time as the Secretary determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Secretary shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

[(2) Repealed. Pub. L. 108–183, title III, § 306(d), Dec. 16, 2003, 117 Stat. 2661.]

[(3) Repealed. Pub. L. 107–14, § 8(a)(5), June 5, 2001, 115 Stat. 34.]

(4) For purposes of paragraph (1) of this subsection, a veteran'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.

Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Secretary, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

Savings Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before June 1, 1966, the 10-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before August 31, 1967, and who pursues a course of farm cooperative training, apprenticeship or other training on the job, the 10-year delimiting period shall run from August 31, 1967, if it is later than the date which would otherwise be applicable.

(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to the veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing the veteran's 10-year period of eligibility for educational assistance, any period during which the veteran was so detained and any period immediately following the veteran's release from such detention during which the veteran was hospitalized at a military, civilian, or Department of Veterans Affairs medical facility.

(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 14, § 1662; amended Pub. L. 90–77, title III, § 305, Aug. 31, 1967, 81 Stat. 188; Pub. L. 93–337, § 1, July 10, 1974, 88 Stat. 292; Pub. L. 94–502, title II, § 211(3), title IV, § 403(b), Oct. 15, 1976, 90 Stat. 2388, 2393; Pub. L. 95–202, title II, § 203(a)(1), (b)(1), Nov. 23, 1977, 91 Stat. 1439; Pub. L. 96–466, title III, § 301, Oct. 17, 1980, 94 Stat. 2191; Pub. L. 97–35, title XX, § 2003(b)(1), Aug. 13, 1981, 95 Stat. 782; Pub. L. 97–72, title II, § 201(a), Nov. 3, 1981, 95 Stat. 1054; Pub. L. 97–295, § 4(39), Oct. 12, 1982, 96 Stat. 1307; Pub. L. 97–306, title II, § 206(a), Oct. 14, 1982, 96 Stat. 1435; Pub. L. 98–160, title VII, § 702(10), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 101–237, title IV, §§ 420(a)(3), 423(b)(1), Dec. 18, 1989, 103 Stat. 2087, 2092; renumbered § 3462 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–14, § 8(a)(5), June 5, 2001, 115 Stat. 34; Pub. L. 108–183, title III, § 306(d), Dec. 16, 2003, 117 Stat. 2661.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a) and (b) of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1176, which was classified to former sections 1612(c) and 1613(a), and 1612(a) of this title, respectively, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

2003—Subsec. (a)(2). Pub. L. 108–183 struck out par. (2) which related to loans under subchapter III of chapter 36 of this title.

2001—Subsec. (a)(3). Pub. L. 107–14 struck out par. (3) which permitted eligible Vietnam-era veterans to use unused entitlements under section 3461 for enumerated educational purposes and directed that veterans be provided with employment counseling.

1991—Pub. L. 102–83, § 5(a), renumbered section 1662 of this title as this section.

Subsec. (a)(2)(A), (3)(A). Pub. L. 102–83, § 5(c)(1), substituted ''3461'' for ''1661''.

Subsec. (a)(3)(C)(ii). Pub. L. 102–83, § 5(c)(1), substituted ''3491(b)(2)'' for ''1691(b)(2)''.

Subsec. (a)(4). Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)(A)(ii)(III)'' for ''1411(a)(1)(A)(ii)(III)''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 420(a)(3)(B), substituted ''Subject to paragraph (4) of this subsection, no'' for ''No''.

Subsec. (a)(3)(B), (C)(i). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (a)(4). Pub. L. 101–237, § 420(a)(3)(A), added par. (4).

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

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

1983—Subsec. (a)(1)(C). Pub. L. 98–160 substituted ''October 1, 1980'' for ''the effective date of the Veterans' Rehabilitation and Education Amendments of 1980''.

1982—Subsec. (a)(2)(B). Pub. L. 97–295, § 4(39)(A), substituted ''November 23, 1977,'' for ''the date of enactment of this paragraph''.

Subsec. (a)(3)(C)(i). Pub. L. 97–306, § 206(a)(1), substituted ''shall'' for ''may'' after ''Educational assistance'', and substituted ''unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes'' for ''only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective''.

Subsec. (a)(3)(D). Pub. L. 97–306, § 206(a)(2), substituted ''December 31, 1984'' for ''December 31, 1983''.

Subsec. (c). Pub. L. 97–295, § 4(39)(B), substituted ''June 1, 1966'' for ''the date for which an educational assistance allowance is first payable under this chapter'', ''August 31, 1967,'' for ''the date of enactment of this sentence'' after ''active duty before'', and ''August 31, 1967'' for ''the date of enactment of this sentence'' after ''shall run from''.

1981—Subsec. (a)(3). Pub. L. 97–72 added par. (3).

Subsec. (c). Pub. L. 97–35 struck out provisions relating to applicability to flight training.

1980—Subsec. (a)(1). Pub. L. 96–466 inserted ''made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest'' after ''application'', inserted ''so'' after ''that such veteran was''; and inserted provision relating to the running of the delimiting period when an extension of the applicable delimiting period is granted a veteran.

1977—Subsec. (a). Pub. L. 95–202 designated existing provisions as par. (1), added par. (2), and inserted ''except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application, be granted an extension of the applicable delimiting period for such length of time as the Administrator determines, from the evidence, that such veteran was prevented from initiating or completing such program of education'' after ''active duty after January 31, 1955'' in par. (1) as so redesignated.

1976—Subsec. (a). Pub. L. 94–502, § 211(3), substituted ''the veteran's'' for ''his''.

Subsecs. (b), (d). Pub. L. 94–502, § 211(3), substituted ''the veteran's'' for ''his'' and ''the veteran'' for ''he'', wherever appearing.

Subsec. (e). Pub. L. 94–502, § 403(b), added subsec. (e).

1974—Subsec. (a). Pub. L. 93–337, § 1(1), substituted ''10'' for ''eight''.

Subsec. (b). Pub. L. 93–337, § 1(2), substituted ''10-year'' for ''8-year''.

Subsec. (c). Pub. L. 93–337, § 1(3), substituted ''10-year'' for ''8-year'' and ''eight year,'' respectively.

Subsec. (d). Pub. L. 93–337, § 1(4), added subsec. (d).

1967—Subsec. (c). Pub. L. 90–77 inserted second sentence respecting commencement of the delimiting period in the case of an eligible veteran discharged from active duty and pursuing training on the job or flight training.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title III, § 306(h)(1), Dec. 16, 2003, 117 Stat. 2661, provided that: ''The amendments made by subsection (d) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 1982 AMENDMENT

Section 206(c) of Pub. L. 97–306 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as of January 1, 1982.''

EFFECTIVE DATE OF 1981 AMENDMENTS

Section 201(b) of Pub. L. 97–72 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1982.''

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, except as otherwise provided, see section 2006 of Pub. L. 97–35, set out as a note under section 3231 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to May 31, 1976, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 211(3) of Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

Amendment by section 403(b) of Pub. L. 94–502 effective Jan. 1, 1977, see section 406 of Pub. L. 94–502, set out as an Effective Date note under section 3201 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

PROPOSAL OF REGULATIONS

Section 206(b) of Pub. L. 97–306 directed Administrator of Veterans' Affairs to publish, not later than 30 days after Oct. 14, 1982, proposed regulations under subsec. (a)(3)(C)(i) of this section and to publish, not later than 90 days after Oct. 14, 1982, final regulations under subsec. (a)(3)(C)(i).

EXTENSION OF TIME FOR PURSUIT OF EDUCATIONAL PROGRAMS

Pub. L. 93–293, May 31, 1974, 88 Stat. 176, provided that the eight-year delimiting date for pursuit of educational programs under this chapter for eligible veterans discharged or released from active duty between Jan. 31, 1955, and Sept. 1, 1966, with certain exceptions, was to run from July 1, 1966.

[§ 3463. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1663 of this chapter, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15; and amended Pub. L. 94–502, title II, § 211(4), Oct. 15, 1976, 90 Stat. 2388; Pub. L. 95–202, title III, § 302(a), Nov. 23, 1977, 91 Stat. 1440; Pub. L. 99–576, title III, § 312, Oct. 28, 1986, 100 Stat. 3273; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092, which related to educational and vocational counseling, was repealed by Pub. L. 102–16, § 2(b)(1)(A), Mar. 22, 1991, 105 Stat. 49.

SUBCHAPTER III—ENROLLMENT

§ 3470. Selection of program

Subject to the provisions of this chapter, each eligible veteran may select a program of edu-

cation to assist the veteran in attaining an educational, professional, or vocational objective at any educational institution (approved in accordance with chapter 36 of this title) selected by the veteran, which will accept and retain the veteran as a student or trainee in any field or branch of knowledge which such institution finds the veteran qualified to undertake or pursue.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15, § 1670; amended Pub. L. 94–502, title II, § 211(5), Oct. 15, 1976, 90 Stat. 2388; renumbered § 3470, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1177, which was classified to section 1620 (first sentence) of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1670 of this title as this section.

1976—Pub. L. 94–502 substituted ''the veteran'' for ''him'' wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3471. Applications; approval

Any eligible veteran, or any person on active duty (after consultation with the appropriate service education officer), who desires to initiate a program of education under this chapter shall submit an application to the Secretary which shall be in such form, and contain such information, as the Secretary shall prescribe. The Secretary shall approve such application unless the Secretary finds that (1) such veteran or person is not eligible for or entitled to the educational assistance for which application is made, (2) the veteran's or person's selected educational institution or training establishment fails to meet any requirement of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered. The Secretary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business. The Secretary shall notify the veteran or person of the approval or disapproval of the veteran's or person's application.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15, § 1671; amended Pub. L. 92–540, title III, § 302, Oct. 24, 1972, 86 Stat. 1080; Pub. L. 94–502, title II, § 211(6), Oct. 15, 1976, 90 Stat. 2388; Pub. L. 96–466, title III, § 302, Oct. 17, 1980, 94 Stat. 2192; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3471, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 108–183, title III, § 305(b), Dec. 16, 2003, 117 Stat. 2660.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1177, which was classified to section 1621 of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

2003—Pub. L. 108–183 inserted before last sentence ''The Secretary shall not treat a person as already qualified for the objective of a program of education offered by a qualified provider of entrepreneurship courses solely because such person is the owner or operator of a business.''

1991—Pub. L. 102–83 renumbered section 1671 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1980—Pub. L. 96–466, among other changes, substituted reference to the veteran's or person's selected educational institution or training establishment failing to meet any requirement of this chapter or chapter 36 of this title for reference to the veteran's or person's program of education failing to meet any of the requirements of this chapter, inserted provision for disapproval of an application upon a finding that the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate this chapter or chapter 36 of this title, and substituted reference to the veteran or person being already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered for reference simply to the veteran or person being already qualified.

1976—Pub. L. 94–502 substituted ''unless the Administrator finds'' for ''unless he finds'', ''the veteran or person'' for ''he'', and ''the veteran's or person's'' for ''his'' in two places.

1972—Pub. L. 92–540 inserted provision authorizing any person on active duty, after consultation with the appropriate service education officer, to submit an application to the Administrator.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 applicable to courses approved by State approving agencies after Dec. 16, 2003, see section 305(f) of Pub. L. 108–183, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

[§ 3472. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1672 of this chapter, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15, which related to change of program by veteran, was repealed by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090.

[§ 3473. Repealed. Pub. L. 102–568, title III, § 313(a)(3)(A), Oct. 29, 1992, 106 Stat. 4332]

Section, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 16, § 1673; amended Pub. L. 90–77, title III, §§ 302(a), 303(a), Aug. 31, 1967, 81 Stat. 185; Pub. L. 91–219, title II, § 202, Mar. 26, 1970, 84 Stat. 78; Pub. L. 92–540, title IV, § 401(2), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 93–508, title

II, § 203, Dec. 3, 1974, 88 Stat. 1582; Pub. L. 94–502, title II, §§ 205, 211(7), Oct. 15, 1976, 90 Stat. 2387, 2388; Pub. L. 95–202, title III, § 305(a)(2), Nov. 23, 1977, 91 Stat. 1443; Pub. L. 96–466, title III, §§ 303–305, Oct. 17, 1980, 94 Stat. 2192, 2193; Pub. L. 97–35, title XX, § 2003(b)(2), Aug. 13, 1981, 95 Stat. 782; Pub. L. 97–295, § 4(40), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 97–306, title II, §§ 202(a), 203(a), Oct. 14, 1982, 96 Stat. 1433; Pub. L. 98–525, title VII, § 703(b), Oct. 19, 1984, 98 Stat. 2564; Pub. L. 100–689, title I, § 111(a)(9), Nov. 18, 1988, 102 Stat. 4172; Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3473 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to disapproval of enrollment in certain courses.

SAVINGS PROVISION

Repeal 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.

§ 3474. Discontinuance for unsatisfactory conduct or progress

The Secretary shall discontinue the educational assistance allowance of an eligible veteran if, at any time, the Secretary finds that according to the regularly prescribed standards and practices of the educational institution, the veteran's attendance, conduct, or progress is unsatisfactory. The Secretary may renew the payment of the educational assistance allowance only if the Secretary finds that—

(1) the veteran will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such veteran's reenrollment and certified it to the Department of Veterans Affairs; or

(2) in the case of a proposed change of either educational institution or program of education by the veteran—

(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

(B) the program proposed to be pursued is suitable to the veteran's aptitudes, interests, and abilities; and

(C) if a proposed change of program is involved, the change meets the requirements for approval under section 3691 of this title.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 16, § 1674; amended Pub. L. 94–502, title II, §§ 206, 211(8), Oct. 15, 1976, 90 Stat. 2387, 2388; Pub. L. 95–202, title III, § 305(b)(1), Nov. 23, 1977, 91 Stat. 1443; Pub. L. 96–466, title III, § 306, Oct. 17, 1980, 94 Stat. 2193; Pub. L. 101–237, title IV, §§ 411(a), 412(b), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2085, 2092; renumbered § 3474 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising the first sentence of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1178, which was classified to former section 1624 of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1674 of this title as this section.

Par. (2)(C). Pub. L. 102–83, § 5(c)(1), substituted ''3691'' for ''1791''.

1989—Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 412(b), substituted ''attendance, conduct,'' for ''conduct''.

Pars. (1), (2). Pub. L. 101–237, § 411(a), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) the cause of the unsatisfactory conduct or progress of the eligible veteran has been removed; and

''(2) the program which the eligible veteran now proposes to pursue (whether the same or revised) is suitable to the veteran's aptitudes, interests, and abilities.''

1980—Pub. L. 96–466 struck out provisions relating to the conditions upon which a veteran's progress would be considered unsatisfactory.

1977—Pub. L. 95–202 inserted provisions authorizing the Administrator to determine the veteran's progress to be satisfactory even though the veteran will graduate within a length of time exceeding the approved length if the additional length of time is reasonable in accordance with regulations.

1976—Pub. L. 94–502, § 211(8), inserted provision specifying progress as unsatisfactory when the veteran will not be able to graduate within the approved length of the course.

Pub. L. 94–502, § 206, substituted ''the veteran's'' for ''his'' in two places and ''if the Administrator finds'' for ''if he finds''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective first day of first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 206 and 211(8) of Pub. L. 94–502 effective Dec. 1, 1976, and Oct. 15, 1976, respectively, see section 703(b), (c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

STUDY OF METHODS TO IMPROVE PROCESS UNDER WHICH POSTSECONDARY EDUCATIONAL INSTITUTIONS AND COURSES ARE APPROVED; REPORT BY SEPTEMBER 30, 1979; SUSPENSION OF IMPLEMENTATION OF 1976 AMENDMENT

Section 305(b)(2)–(4) of Pub. L. 95–202, as amended by Pub. L. 96–466, title VIII, § 801(m)(2), Oct. 17, 1980, 94 Stat. 2217, directed Administrator of Veterans' Affairs to study specific methods for improving process by which postsecondary educational institutions and courses at such institutions are approved for purposes of chapters 32, 34, 35, and 36 of this title, and need for legislative and administrative action regarding discontinuing educational assistance allowances to eligible veterans whose conduct or progress is unsatisfactory, required submission of a report on the study to President and Congress not later than Sept. 30, 1979, and directed Administrator to suspend implementation of certain amendments by Pub. L. 94–502 until submission of report.

[§ 3475. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1675 of this chapter, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 16, which

related to period of operation for approval by Administrator, was repealed by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090.

§ 3476. Education outside the United States

An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary. The Secretary may deny or discontinue educational assistance under this chapter in the case of any veteran enrolled in an institution of higher learning not located in a State if the Secretary determines that such enrollment is not in the best interest of the veteran or the Federal Government.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 17, § 1676; amended Pub. L. 94–502, title II, § 211(9), Oct. 15, 1976, 90 Stat. 2389; Pub. L. 96–466, title III, § 307(b), Oct. 17, 1980, 94 Stat. 2193; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3476, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 604(a), Nov. 2, 1994, 108 Stat. 4671.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1177, which was classified to former section 1620 (second and third sentences) of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

1994—Pub. L. 103–446 amended first sentence generally. Prior to amendment, first sentence read as follows: "An eligible veteran may not enroll in any course at an educational institution not located in a State unless such course is pursued at an approved institution of higher learning and the course is approved by the Secretary."

1991—Pub. L. 102–83 renumbered section 1676 of this title as this section.

1989—Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1980—Pub. L. 96–466, among other changes, substituted reference to an eligible veteran not enrolling in any course for reference to an eligible veteran not pursuing a program of education, inserted provision that the course be approved by the Administrator, and substituted reference to any veteran enrolled in an institution of higher learning not located in a State for reference to any veteran in a foreign educational institution.

1976—Pub. L. 94–502 substituted "the Administrator's" for "his" and "if the Administrator finds" for "if he finds".

EFFECTIVE DATE OF 1994 AMENDMENT

Section 604(b) of Pub. L. 103–446 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to courses approved on or after the date of the enactment of this Act [Nov. 2, 1994]."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

[§§ 3477, 3478. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, sections 1677 and 1678 of this chapter were repealed.

Section 1677, added Pub. L. 90–77, title III, § 302(b), Aug. 31, 1967, 81 Stat. 185; Pub. L. 90–631, § 5, Oct. 23, 1968, 82 Stat. 1335; Pub. L. 91–219, title I, § 102, title II, § 203, Mar. 26, 1970, 84 Stat. 76, 78; Pub. L. 92–540, title I, § 102(1), title IV, § 401(3), Oct. 24, 1972, 86 Stat. 1075, 1090; Pub. L. 93–508, title I, § 102(1), Dec. 3, 1974, 88 Stat. 1579; Pub. L. 93–602, title II, § 203(a), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 95–202, title I, § 102(1), Nov. 23, 1977, 91 Stat. 1433; Pub. L. 96–466, title II, §§ 201(1), 211(1), title VI, § 603(a), Oct. 17, 1980, 94 Stat. 2187, 2189, 2209, which set forth provisions respecting eligibility, approval, etc., for flight training, was repealed by Pub. L. 97–35, title XX, §§ 2003(b)(3)(A), 2006, Aug. 13, 1981, 95 Stat. 782, 783, effective Oct. 1, 1981, except as otherwise provided for persons receiving educational assistance.

Section 1678, added Pub. L. 90–77, title III, § 306(a), Aug. 31, 1967, 81 Stat. 188, which related to special training for educationally disadvantaged, was repealed by Pub. L. 91–219, title II, § 204(a)(2), Mar. 26, 1970, 84 Stat. 79.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

AMENDMENTS

1972—Pub. L. 92–540, title IV, § 404(b), Oct. 24, 1972, 86 Stat. 1091, inserted "; VETERAN-STUDENT SERVICES".

§ 3481. Educational assistance allowance

General

(a) The Secretary shall, in accordance with the applicable provisions of this section and chapter 36 of this title, pay to each eligible veteran who is pursuing a program of education under this chapter an educational assistance allowance to meet, in part, the expenses of the veteran's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

Institutional Training

(b) The educational assistance allowance of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence, at an educational institution shall be paid as provided in chapter 36 of this title.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 17, § 1681; amended Pub. L. 91–219, title II, § 205, Mar. 26, 1970, 84 Stat. 81; Pub. L. 91–584, § 6, Dec. 24, 1970, 84 Stat. 1576; Pub. L. 92–540, title II, § 202, Oct. 24, 1972, 86 Stat. 1079; Pub. L. 94–502, title II, §§ 210(2), 211(10), Oct. 15, 1976, 90 Stat. 2388, 2389; Pub. L. 97–35, title XX, § 2003(b)(4), Aug. 13, 1981, 95 Stat. 782; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3481, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a), (b), (d), and (e) of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1179, which was classified to former section 1631 of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1681 of this title as this section.

1989—Subsec. (a). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1981—Subsec. (b). Pub. L. 97–35, § 2003(b)(4)(A), struck out applicability to flight training program.

Subsec. (c). Pub. L. 97–35, § 2003(b)(4)(B), struck out subsec. (c) which related to flight training.

1976—Subsec. (a). Pub. L. 94–502, §§ 210(2), 211(10), substituted ''chapter 36'' for ''section 1780'' and ''the veteran's'' for ''his''.

Subsec. (b). Pub. L. 94–502, § 210(2), substituted ''chapter 36'' for ''section 1780''.

1972—Subsec. (a). Pub. L. 92–540 inserted heading and provisions requiring allowances to be paid in accordance with the applicable provisions of this section and section 1780 of this title.

Subsec. (b). Pub. L. 92–540 inserted heading and substituted provisions requiring allowances of an eligible veteran pursuing a program of education, other than a program exclusively by correspondence or a program of flight training, at an educational institution to be paid as provided in section 1780 of this title, for provisions requiring allowances of an eligible veteran to be paid, as provided in section 1682 of this title, only for the period of his enrollment as approved by the Administrator, but limiting such payments to veterans meeting certain specified requirements while pursuing standard college degrees.

Subsec. (c). Pub. L. 92–540 inserted heading and substituted provisions relating to the payment of allowances to eligible veterans pursuing a program of education consisting exclusively of flight training, for provisions authorizing the Administrator to prescribe regulations to determine enrollment in, pursuit of, and attendance at, any program of education or course by an eligible veteran.

Subsec. (d). Pub. L. 92–540 struck out subsec. (d) which related to certification to the Administrator from the eligible veteran as to his actual attendance or completion of lessons by correspondence, and from the educational institution that such veteran was enrolled in and pursuing a course of education during such period or completion of lessons by correspondence by the veteran and serviced by the institution.

Subsec. (e). Pub. L. 92–540 struck out subsec. (e) which related to the prompt payment of the educational assistance allowance to the veteran.

1970—Subsec. (b)(2). Pub. L. 91–584 excluded programs of apprenticeship and programs of other on-job training authorized by section 1683 of this title for educational assistance to veterans.

Subsec. (d). Pub. L. 91–219 inserted provision that the Administrator may pay an educational assistance allowance representing the initial payment of an enrollment period, not exceeding one full month, upon receipt of a certificate of enrollment.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, except as otherwise provided, see section 2006 of Pub. L. 97–35, set out as a note under section 3231 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3482. Computation of educational assistance allowances

(a)(1) Except as provided in subsection (b), (c), or (g) of this section, or section 3687 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$376	$448	$510	$32
Three-quarter time.	283	336	383	24
Half-time	188	224	255	17
Cooperative.	304	355	404	23

(2) A ''cooperative'' program, other than a ''farm cooperative'' program, means a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion.

(b) The educational assistance allowance of an individual pursuing a program of education—

(1) while on active duty, or

(2) on less than a half-time basis,

shall be computed at the rate of (A) the established charges for tuition and fees which the institution requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) $376 per month for a full-time course, whichever is the lesser. An individual's entitlement shall be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 3688 of this title.

(c)(1) An eligible veteran who is enrolled in an educational institution for a ''farm cooperative'' program consisting of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of 7 clock hours per week), or

(C) a half-time basis (a minimum of 5 clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in the table in paragraph (2) of this subsection, if such eligible veteran is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Secretary. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the veteran is enrolled.

(2) The monthly educational assistance allowance of an eligible veteran pursuing a farm cooperative program under this chapter shall be paid

as set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the basis shown in column I:

Column I	Column II	Column III	Column IV	Column V
Basis	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Full-time	$304	$355	$404	$23
Three-quarter time.	228	266	303	18
Half-time	152	178	202	12

(d)(1) Notwithstanding the prohibition in section 3471 of this title prohibiting enrollment of an eligible veteran in a program of education in which such veteran has ''already qualified,'' a veteran shall be allowed up to six months of educational assistance (or the equivalent thereof in part-time assistance) for the pursuit of refresher training to permit such veteran to update such veteran's knowledge and skills and to be instructed in the technological advances which have occurred in such veteran's field of employment during and since the period of such veteran's active military service.

(2) A veteran pursuing refresher training under this subsection shall be paid an educational assistance allowance based upon the rate prescribed in the table in subsection (a)(1) or in subsection (c)(2) of this section, whichever is applicable.

(3) The educational assistance allowance paid under the authority of this subsection shall be charged against the period of entitlement the veteran has earned pursuant to section 3461(a) of this title.

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Secretary, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 3688 of this title.

(f) The educational assistance allowance of an eligible veteran pursuing a course by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.

(g)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Secretary determines, in accordance with regulations which the Secretary shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 3687(b)(1) of this title, whichever is the lesser. The amount of the educational assistance allowance payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Secretary) or under any State or local program.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(h)(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 paid to such individual for such test by the full-time monthly institutional rate of the educational assistance allowance which, except for paragraph (1), such individual would otherwise be paid under this chapter.

(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.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 18, § 1682; amended Pub. L. 90–77, title III, §§ 301, 303(b), Aug. 31, 1967, 81 Stat. 184, 185; Pub. L. 90–631, § 3, Oct. 23, 1968, 82 Stat. 1333; Pub. L. 91–219, title I, § 103(a)–(d), title II, § 204(a)(3), Mar. 26, 1970, 84 Stat. 76, 77, 79; Pub. L. 91–584, § 9, Dec. 24, 1970, 84 Stat. 1577; Pub. L. 92–540, title I, § 102(2)–(4), title III, § 303, title IV, § 401(4), (5), Oct. 24, 1972, 86 Stat. 1075, 1081, 1090; Pub. L. 93–508, title I, § 102(2)–(4), title II, § 204, Dec. 3, 1974, 88 Stat. 1579, 1582; Pub. L. 93–602, title II, § 203(b), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title II, §§ 201(1)–(3), 207, Oct. 15, 1976, 90 Stat. 2384, 2385, 2387; Pub. L. 95–202, title I, § 102(2)–(4), Nov. 23, 1977, 91 Stat. 1434; Pub. L. 96–466, title II,

§§ 201(2)–(4), 211(2)–(4), title III, §§ 308–310, title VI, § 602(a), Oct. 17, 1980, 94 Stat. 2187–2190, 2194, 2208; Pub. L. 97–35, title XX, § 2003(b)(5), Aug. 13, 1981, 95 Stat. 782; Pub. L. 97–306, title II, §§ 204, 205(b), Oct. 14, 1982, 96 Stat. 1434; Pub. L. 98–160, title VII, § 702(11), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 98–543, title II, § 202(1)–(3), Oct. 24, 1984, 98 Stat. 2741; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3482 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–275, title I, § 104(a), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 106–419, title I, § 122(b)(3), Nov. 1, 2000, 114 Stat. 1834.)

PRIOR PROVISIONS

Provisions similar to those comprising subsecs. (a), (b)(2), (c)(1), and (c)(2) of this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1176, 1180, which was classified to former sections 1632(a) and (b), (f), (e), and 1611(c) of this title, respectively, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

2000—Subsec. (h). Pub. L. 106–419 added subsec. (h).

1996—Subsec. (f). Pub. L. 104–275 struck out ''in part'' after ''pursuing a course''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1682 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3687'' for ''1787''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3688'' for ''1788'' in last sentence.

Subsec. (d)(1), (3). Pub. L. 102–83, § 5(c)(1), substituted ''3471'' for ''1671'' in par. (1) and ''3461(a)'' for ''1661(a)'' in par. (3).

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''3688'' for ''1788''.

Subsec. (g)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3687(b)(1)'' for ''1787(b)(1)''.

1989—Subsecs. (c)(1), (e), (g)(1). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1984—Subsec. (a)(1). Pub. L. 98–543, § 202(1), increased the monthly educational assistance allowance for eligible veterans in column II from $342, $257, $171, and $276 to $376, $283, $188 and $304; in column III from $407, $305, $204 and $323 to $448, $336, $224 and $355; in column IV from $464, $348, $232, and $367 to $510, $383, $255, and $404; in column V from $29, $22, $15 and $21 to $32, $24, $17, and $23, respectively.

Subsec. (b). Pub. L. 98–543, § 202(2), substituted ''$376'' for ''$342''.

Subsec. (c)(2). Pub. L. 98–543, § 202(3), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $276, $207, and $138 to $304, $228 and $152; in column III from $323, $242 and $162 to $355, $266 and $178; in column IV from $367, $275 and $184 to $404, $303 and $202; in column V from $21, $16 and $11 to $23, $18 and $12, respectively.

1983—Subsec. (c)(1)(C). Pub. L. 98–160 inserted a comma after ''hours per week)''.

1982—Subsec. (a)(1). Pub. L. 97–306, § 204(1), substituted ''(c), or (g)'' for ''or (c)'' after ''subsection (b),''.

Subsec. (e). Pub. L. 97–306, § 204(2), substituted provision that the amount of such veteran's entitlement to educational assistance under this chapter shall be charged in accordance with the rate at which the veteran is pursuing the independent study program but at not more than the rate at which such entitlement is charged for pursuit of such program on less than a half-time basis for provision that the entitlement would be charged at one-half of the full-time institutional rate.

Subsec. (g)(1). Pub. L. 97–306, § 205(b)(1), inserted provision that the amount of the educational assistance allowance payable to a veteran while incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

Subsec. (g)(2). Pub. L. 97–306, § 205(b)(2), inserted ''not'' after ''shall'', and struck out ''if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government'' at the end.

1981—Subsec. (a)(1). Pub. L. 97–35 struck out reference to section 1677 of this title.

1980—Subsec. (a)(1). Pub. L. 96–466, § 211(2), increased the monthly educational assistance allowance for eligible veterans in column II from $327, $245, $164, and $264 to $342, $257, $171, and $276; in column III from $389, $292, $195, and $309 to $407, $305, $204, and $323; in column IV from $443, $332, $222, and $351 to $464, $348, $232, and $367; in column V from $27, $20, and $14 to $29, $22, and $15, respectively.

Pub. L. 96–466, § 201(2), increased the monthly educational assistance allowance for eligible veterans in column II from $311, $233, $156, and $251 to $327, $245, $164, and $264; in column III from $370, $277, $185, and $294 to $389, $292, $195, and $309; in column IV from $422, $317, $211, and $334 to $443, $332, $222, and $351; in column V from $26, $19, $13, and $19 to $27, $20, $14, and $21, respectively.

Subsec. (b). Pub. L. 96–466, § 211(3), substituted ''$342'' for ''$327''.

Pub. L. 96–466, § 201(3), substituted ''$327'' for ''$311''.

Pub. L. 96–466, § 308, inserted provision that an individual's entitlement be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

Subsec. (c)(2). Pub. L. 96–466, § 211(4), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $264, $198, and $132 to $276, $207, and $138; in column III from $309, $232, and $155 to $323, $242, and $162; in column IV from $351, $263, and $176 to $367, $275, and $184; in column V from $20, $15, and $10 to $21, $16, and $11, respectively.

Pub. L. 96–466, § 201(4), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $251, $188, and $126 to $264, $198, and $132; in column III from $294, $221, and $147 to $309, $232, and $155; in column IV from $334, $251, and $167 to $351, $263, and $176; in column V from $19 to $20, respectively.

Subsec. (e). Pub. L. 96–466, § 309, substituted reference to the rate provided in subsec. (b) of this section for reference to the rate provided in subsec. (b)(2) of this section, inserted provision that if the entire training be pursued by independent study, entitlement be charged at one-half of the full-time institutional rate, substituted provisions relating to the payment of the educational assistance allowance in any case in which independent study is combined with resident training for provisions relating to the maximum allowance in those cases where independent study is combined with resident training and the resident training constitutes the major portion of such training, and inserted provision that a veteran's entitlement be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

Subsec. (f). Pub. L. 96–466, § 310, added subsec. (f).

Subsec. (g). Pub. L. 96–466, § 602(a), added subsec. (g).

1977—Subsec. (a)(1). Pub. L. 95–202, § 102(2), increased the monthly educational assistance allowance for eligible veterans in column II from $292, $219, $146, and $235 to $311, $233, $156, and $251; in column III from $347, $260, $174, and $276 to $370, $277, $185, and $294; in column IV from $396, $297, $198, and $313 to $422, $317, $211, and $334; in column V from $24, $18, $12, and $18 to $26, $19, $13, and $19, respectively.

Subsec. (b). Pub. L. 95–202, § 102(3), substituted ''$311'' for ''$292''.

Subsec. (c)(2). Pub. L. 95–202, § 102(4), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $235, $176, and $118 to $251, $188, and $126;

in column III from $276, $207, and $138 to $294, $221, and $147; in column IV from $313, $235, and $157 to $334, $251, and $167; in column V from $18, $14, and $9 to $19, $15, and $10, respectively.

1976—Subsec. (a)(1). Pub. L. 94–502, § 201(1), increased the monthly educational assistance allowance for eligible veterans in column II from $270, $203, $135, and $217 to $292, $219, $146 and $235; in column III from $321, $240, $160, and $255 to $347, $260, $174, and $276; in column IV from $366, $275, $182, and $289 to $396, $297, $198, and $313; in column V from $22, $17, $11, and $17 to $24, $18, $12, and $18, respectively.

Subsec. (b). Pub. L. 94–502, § 201(2), substituted ''$292'' for ''$270''.

Subsec. (c)(2). Pub. L. 94–502, § 201(3), increased the monthly educational assistance allowance for eligible veterans pursuing a farm cooperative program in column II from $217, $163, and $109 to $235, $176, and $118; in column III from $255, $191, and $128 to $276, $207 and $138; in column IV from $289, $218, and $145 to $313, $235, and $157; in column V from $17, and $13 to $18, and $14, respectively.

Subsec. (e). Pub. L. 94–502, § 207, added subsec. (e).

1975—Subsec. (b). Pub. L. 93–602 substituted ''$270'' for ''$260''.

1974—Subsec. (a)(1). Pub. L. 93–508, § 102(2), increased the monthly educational assistance allowance for eligible veterans in column II from $220, $165, $110, and $177 to $270, $203, $135, and $217; in column III from $261, $196, $131, and $208 to $321, $240, $160, and $255; in column IV from $298, $224, $149, and $236 to $366, $275, $182, and $289; and in column V from $18, $14, $9, and $14 to $22, $17, $11, and $17, respectively.

Subsec. (b). Pub. L. 93–508, § 102(3), substituted ''$260'' for ''$220''.

Subsec. (c)(2). Pub. L. 93–508, § 102(4), increased the educational assistance allowance rates for eligible veterans pursuing a farm cooperative program in column II from $177, $133, and $89 to $217, $163, and $109; in column III from $208, $156, and $104 to $255, $191, and $128; in column IV from $236, $177, and $118 to $289, $218, and $145; and in column V from $14, $11, and $7 to $17, $13, and $9 respectively.

Subsec. (d). Pub. L. 93–508, § 204, added subsec. (d).

1972—Subsec. (a)(1), Pub. L. 92–540, §§ 102(2), 401(4), substituted references to subsec. (c) of this section and section 1787 of this title for references to subsec. (c)(1) or (d) of this section and section 1683 of this title, respectively, and increased the monthly educational assistance allowance for eligible veterans in column II from $175, $128, $81, and $141 to $220, $165, $110, and $177; in column III from $205, $152, $100, and $167 to $261, $196, $131, and $208; in column IV from $230, $177, $114, and $192 to $298, $224, $149, and $236; and in column V from $13, $10, $7, and $10 to $18, $14, $9, and $14, respectively.

Subsec. (b). Pub. L. 92–540, §§ 102(3), 401(5), substituted ''$220'' for ''$175'', and struck out provisions relating to payment of the educational assistance allowance provided by this subsection and the educational assistance allowance provided by section 1696(b) of this title.

Subsecs. (c), (d). Pub. L. 92–540, §§ 102(4), 303, struck out subsec. (c) which related to the computation of the educational assistance allowance of an eligible veteran pursuing a program of education exclusively by correspondence. Subsec. (d) redesignated (c), and, as so redesignated, in par. (1)(A) generally amended prerequisites for a full-time basis program, in par. (1)(B) substituted ''7'' for ''9'', in par. (1)(C) substituted ''5'' for ''6'', following par. (1)(C) inserted provision relating to the computation of the clock hour requirements, and in par. (2) increased the educational assistance allowance rates for eligible veterans pursuing a farm cooperative program in column II from $141, $101, and $67 to $177, $133, and $89; in column III from $165, $119, and $79 to $208, $156, and $104; in column IV from $190, $138, and $92 to $236, $177, and $118; and in column V from $10, $7, and $4 to $14, $11, and $7, respectively.

1970—Subsec. (a)(1). Pub. L. 91–219, § 103(a), increased the monthly educational assistance allowance for eligible veterans in column II from $130, $95, $60, and $105 to $175, $128, $81, and $141; in column III from $155, $115, $75, and $125 to $205, $152, $100, and $167; in column IV from $175, $135, $85, and $145 to $230, $177, $114, and $192; in column V from $10, $7, $5, and $7 to $13, $10, $7, and $10, respectively.

Subsec. (b). Pub. L. 91–219, §§ 103(b), 204(a)(3), substituted ''$175'' for ''$130'' and inserted provision that educational assistance allowance provided by this subsection and the educational assistance allowance provided by section 1696(b) be made in an amount computed for the entire quarter, semester, or term during the month immediately following the month in which certification is received.

Subsec. (c)(1). Pub. L. 91–584 inserted definition of ''established charge''.

Subsec. (c)(2). Pub. L. 91–219, § 103(c), substituted ''$175'' for ''$130''.

Subsec. (d)(2). Pub. L. 91–219, § 103(d), increased the educational assistance allowance rates for eligible veterans pursuing a farm cooperative program in column II from $105, $75, and $50 to $141, $101, and $67; in column III from $125, $90, and $60 to $165, $119 and $79; in column IV from $145, $105, and $70 to $190, $138, and $92; in column V from $7, $5, and $3 to $10, $7, and $4, respectively.

1968—Subsec. (a)(2). Pub. L. 90–631, § 3(b)(1), inserted '', other than a 'farm cooperative' program,'' after ''A 'cooperative' program''.

Subsec. (c)(2). Pub. L. 90–631, § 3(a), substituted provisions charging the period of entitlement of any eligible veteran with one month for each $130 paid to such veteran as an educational assistance allowance when such veteran is pursuing a program of education exclusively by correspondence for provisions charging the period of entitlement of any eligible veteran with one-fourth of the elapsed time in following such program of education.

Subsec. (d). Pub. L. 90–631, § 3(b)(2), inserted requirement that the ''farm cooperative'' program consist of institutional agricultural courses prescheduled to fall within 44 weeks of any period of 12 consecutive months, inserted provisions making veterans pursuing programs of 6 or 9 clock hours per week eligible to receive an educational assistance allowance, and substituted provisions that the appropriate rate for such allowance shall be as provided in the table set out in subsec. (d)(2) of this section for provisions that the appropriate rate shall be as provided in the table set out in subsec. (a)(1) of this section opposite the word ''Cooperative'' under Column I of such table.

1967—Subsec. (a)(1). Pub. L. 90–77, § 301(a), (b), included in text preceding the table references to subsec. (d) of this section, sections 1677 and 1683 of this title, and column V; and, increased the monthly educational assistance allowance in column II from $100, $75, $50, and $80 to $130, $95, $60, and $105; in column III from $125, $95, $65, and $100 to $155, $115, $75, and $125; in column IV from $150, $115, $75, and $120 to $175, $135, $85, and $145 (restricting column IV to two dependents), and added column V (formerly covered in former column IV), respectively.

Subsec. (b)(2)(B). Pub. L. 90–77, § 301(c), substituted ''$130'' for ''$100''.

Subsec. (d). Pub. L. 90–77, § 303(b), added subsec. (d).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as a note under section 3032 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Oct. 1, 1984, see section 205 of Pub. L. 98–543, set out as a note under section 3108 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, except as otherwise provided, see section 2006 of Pub. L. 97–35, set out as a note under section 3231 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(b) of Pub. L. 96–466 provided that:

''(1) The amendments made by part A of title II [sections 201 to 203 of Pub. L. 96–466, see Tables for classification] shall become effective on October 1, 1980.

''(2) The amendments made by part B of title II [sections 211 to 213 of Pub. L. 96–466, see Tables for classification] shall become effective on January 1, 1981.''

Amendment by sections 308 to 310 of Pub. L. 96–466 [amending this section] effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

Amendment by section 602(a) of Pub. L. 96–466 [amending this section] effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 206 of title II of Pub. L. 93–602 provided that: ''The provisions of this title [see Tables for classification] shall become effective on January 1, 1975.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 501 of Pub. L. 93–508 provided that: ''Title I of this Act [see Tables for classification] shall become effective on September 1, 1974.''

Amendment by section 204 of Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 601(a) of Pub. L. 92–540 provided that: ''The rate increases provided in Title I of this Act [see Tables for classification] and the rate increases provided by the provisions of section 1787 [now 3687], title 38, United States Code (as added by section 316 of this Act) shall become effective October 1, 1972; except, for those veterans and eligible persons in training on the date of enactment [Oct. 24, 1972], the effective date shall be the date of the commencement of the current enrollment period, but not earlier than September 1, 1972.''

Amendment by section 303 of Pub. L. 92–540 not to effect any enrollment agreement entered into by an eligible veteran prior to Jan. 1, 1973, see section 602 of Pub. L. 92–540, set out as an Effective Date note under section 3686 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 301 of Pub. L. 91–219 provided that: ''Title I of this Act [see Tables for classification] takes effect February 1, 1970.''

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–631 effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as an Effective Date note under section 3500 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

APPLICABILITY OF SUBSECTION (g)(1) TO APPORTIONMENTS MADE BEFORE OCTOBER 17, 1980

Section 602(d) of Pub. L. 96–466 provided that: ''The provisions of section 1682(g)(1) [now 3482(g)(1)] of title 38, United States Code, as added by subsection (a) shall not apply to an apportionment made under section 3107(c) [now 5307(c)] of such title before the date of the enactment of this Act [Oct. 17, 1980].''

[Section 802(f) of Pub. L. 96–466 provided in part that, except as otherwise specifically provided, section 602(d) shall become effective Oct. 1, 1980.]

OVERPAYMENTS TO VETERANS BY TANGIPAHOA PARISH SCHOOL BOARD, AMITE, LOUISIANA

Pub. L. 90–493, § 5, Aug. 19, 1968, 82 Stat. 809, provided that any veteran determined by the Administrator of Veterans' Affairs to have received overpayments of educational benefits under former chapter 33 of title 38, United States Code in connection with the institutional on-farm training program conducted by the Tangipahoa Parish School Board, Amite, Louisiana, would be relieved of all liability to the United States for the amount of such overpayment, remaining due on Aug. 19, 1968, by making application for relief within two years following Aug. 19, 1968.

[§ 3482A. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1682A of this chapter, added Pub. L. 95–202, title II, § 201(a), Nov. 23, 1977, 91 Stat. 1436; amended Pub. L. 97–295, § 4(41), Oct. 12, 1982, 96 Stat. 1308, which related to accelerated payment of educational assistance allowances, was repealed by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

§ 3483. Approval of courses

An eligible veteran shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course is approved in accordance with the provisions of subchapter I of chapter 36 of this title.

(Added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1685; renumbered § 1686, Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; renumbered § 1683, Pub. L. 92–540, title IV, § 401(7), Oct. 24, 1972, 86 Stat. 1090; renumbered § 3483, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1683 of this title as this section.

§ 3484. Apprenticeship or other on-job training; correspondence courses

Any eligible veteran may pursue a program of apprenticeship or other on-job training or a program of education exclusively by correspondence and be paid an educational assistance allowance or training assistance allowance, as applicable, under the provisions of section 3687 or 3686 of this title.

(Added Pub. L. 92–540, title III, § 304, Oct. 24, 1972, 86 Stat. 1081, § 1684; renumbered § 3484 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1684 of this title as this section and substituted ''3687 or 3686'' for ''1787 or 1786''.

§ 3485. Work-study allowance

(a)(1) Individuals utilized under the authority of subsection (b) shall be paid an additional edu-

cational assistance allowance (hereinafter in this section referred to as ''work-study allowance''). Such allowance shall be paid in return for an individual's entering into an agreement described in paragraph (3).

(2) Such work-study allowance shall be paid in an amount equal to the product of—

(A) the applicable hourly minimum wage; and

(B) the number of hours worked during the applicable period.

(3) An agreement described in this paragraph is an agreement of an individual to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with a qualifying work-study activity.

(4) For the purposes of this section, the term ''qualifying work-study activity'' means any of the following:

(A) The outreach services program under subchapter II of chapter 77 of this title as carried out under the supervision of a Department employee or, during the period preceding December 27, 2006, outreach services to servicemembers and veterans furnished by employees of a State approving agency.

(B) The preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department.

(C) The provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, including, during the period preceding December 27, 2006, the provision of such care to veterans in a State home for which payment is made under section 1741 of this title.

(D) Any other activity of the Department as the Secretary determines appropriate.

(E) In the case of an individual who is receiving educational assistance under chapter 1606 of title 10, an activity relating to the administration of that chapter at Department of Defense, Coast Guard, or National Guard facilities.

(F) During the period preceding December 27, 2006, an activity relating to the administration of a national cemetery or a State veterans' cemetery.

(5) An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement (but not more than an amount equal to 50 times the applicable hourly minimum wage).

(6) For the purposes of this subsection and subsection (e), the term ''applicable hourly minimum wages'' means—

(A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)); or

(B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in subparagraph (A) and the Secretary has made a determination to pay such higher wage.

(b) Notwithstanding any other provision of law, the Secretary shall, subject to the provisions of subsection (e) of this section, utilize, in connection with the activities specified in subsection (a)(1) of this section, the service of individuals who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, or 34 of this title or chapter 106 of title 10, at a rate equal to at least three-quarters of that required of a full-time student. In carrying out this section, the Secretary, wherever feasible, shall give priority to veterans with disabilities rated at 30 percent or more for purposes of chapter 11 of this title. In the event an individual ceases to be at least a three-quarter-time student before completing such agreement, the individual may, with the approval of the Secretary, be permitted to complete such agreement.

(c) The Secretary shall determine the number of individuals whose services the Department of Veterans Affairs can effectively utilize and the types of services that such individuals may be required to perform, on the basis of a survey, which the Secretary shall conduct annually, of each Department of Veterans Affairs regional office in order to determine the numbers of individuals whose services can effectively be utilized during an enrollment period in each geographical area where Department of Veterans Affairs activities are conducted, and shall determine which individuals shall be offered agreements under this section in accordance with regulations which the Secretary shall prescribe, including as criteria (1) the need of the individual to augment the veteran's educational assistance or subsistence allowance; (2) the availability to the individual of transportation to the place where the individual's services are to be performed; (3) the motivation of the individual; and (4) in the case of a disabled veteran pursuing a course of vocational rehabilitation under chapter 31 of this title, the compatibility of the work assignment to the veteran's physical condition.

(d) While performing the services authorized by this section, individuals shall be deemed employees of the United States for the purposes of the benefits of chapter 81 of title 5 but not for the purposes of laws administrated by the Office of Personnel Management.

(e)(1) Subject to paragraph (2) of this subsection, the Secretary may, notwithstanding any other provision of law, enter into an agreement with an individual under this section, or a modification of such an agreement, whereby the individual agrees to perform services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section and agrees that the Secretary shall, in lieu of paying the work-study allowance payable for such services, as provided in subsection (a) of this section, deduct the amount of the allowance from the amount which the individual has been determined to be indebted to the United States by virtue of such individual's participation in a benefits program under this chapter, chapter 30, 31, 32, 35, or 36 of this title, or chapter 106 of title 10 (other than

an indebtedness arising from a refund penalty imposed under section 2135[1] of such title).

(2)(A) Subject to subparagraph (B) of this paragraph, the provisions of this section (other than those provisions which are determined by the Secretary to be inapplicable to an agreement under this subsection) shall apply to any agreement authorized under paragraph (1) of this subsection.

(B) For the purposes of this subsection, the Secretary may—

(i) waive, in whole or in part, the limitations in subsection (a) of this section concerning the number of hours and periods during which services can be performed by the individual and the provisions of subsection (b) of this section requiring the individual's pursuit of a program of rehabilitation, education, or training;

(ii) in accordance with such terms and conditions as may be specified in the agreement under this subsection, waive or defer charging interest and administrative costs pursuant to section 5315 of this title on the indebtedness to be satisfied by performance of the agreement; and

(iii) notwithstanding the indebtedness offset provisions of section 5314 of this title, waive or defer until the termination of an agreement under this subsection the deduction of all or any portion of the amount of indebtedness covered by the agreement from future payments to the individual as described in section 5314 of this title.

(3)(A) Subject to the provisions of subparagraphs (B) and (C) of this paragraph, an agreement authorized under this subsection shall terminate in accordance with the provisions of this section and the terms and conditions of the agreement which are consistent with this subsection.

(B) In no event shall an agreement under this subsection continue in force after the total amount of the individual's indebtedness described in paragraph (1) of this subsection has been recouped, waived, or otherwise liquidated.

(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, if the Secretary finds that an individual was without fault and was allowed to perform services described in the agreement after its termination, the Secretary shall, as reasonable compensation therefor, pay the individual at the applicable hourly minimum wage rate for such services as the Secretary determines were satisfactorily performed.

(4) The Secretary shall promulgate regulations to carry out this subsection.

(Added Pub. L. 92–540, title II, § 203, Oct. 24, 1972, 86 Stat. 1079, § 1685; amended Pub. L. 93–508, title II, § 205, Dec. 3, 1974, 88 Stat. 1582; Pub. L. 94–502, title II, §§ 208, 211(11), Oct. 15, 1976, 90 Stat. 2388, 2389; Pub. L. 95–202, title I, § 105, Nov. 23, 1977, 91 Stat. 1435; Pub. L. 96–466, title VIII, § 801(b), Oct. 17, 1980, 94 Stat. 2216; Pub. L. 97–295, § 4(42), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 99–576, title III, § 308(c), Oct. 28, 1986, 100 Stat. 3270; Pub. L. 101–237, title IV, §§ 405(a)–(d)(2), (4)(A), 423(b)(1), Dec. 18, 1989, 103 Stat. 2080, 2081, 2092; Pub. L. 102–16, §§ 6(a)–(b)(2), 10(a)(5), Mar. 22, 1991, 105 Stat. 50, 51, 55; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3485 and amended Pub. L. 102–83, §§ 2(c)(2), 5(a), Aug. 6, 1991, 105 Stat. 402, 406; Pub. L. 102–568, title III, § 311, Oct. 29, 1992, 106 Stat. 4330; Pub. L. 105–368, title II, § 202(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35; Pub. L. 107–103, title I, § 107(a), Dec. 27, 2001, 115 Stat. 983; Pub. L. 107–330, title III, § 308(g)(11), Dec. 6, 2002, 116 Stat. 2829; Pub. L. 108–183, title III, § 306(f)(1), Dec. 16, 2003, 117 Stat. 2661.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 2135 of title 10, referred to in subsec. (e)(1), was renumbered section 16135 of Title 10, Armed Forces, by Pub. L. 103–337, div. A, title XVI, § 1663(b)(2), Oct. 5, 1994, 108 Stat. 3006.

AMENDMENTS

2003—Subsec. (e)(1). Pub. L. 108–183 struck out "(other than an education loan under subchapter III)" after "chapter 30, 31, 32, 35, or 36".

2002—Subsec. (a)(4)(A), (C), (F). Pub. L. 107–330 substituted "the period preceding December 27, 2006" for "the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001".

2001—Subsec. (a). Pub. L. 107–103 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows:

"(a)(1) Individuals utilized under the authority of subsection (b) of this section shall be paid an additional educational assistance allowance (hereinafter referred to as 'work-study allowance'). Such work-study allowance shall be paid in an amount equal to the applicable hourly minimum wage times the number of hours worked during the applicable period, in return for such individual's agreement to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period, required in connection with (A) the out-reach services program under subchapter II of chapter 77 of this title as carried out under the supervision of a Department of Veterans Affairs employee, (B) the preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of the Department of Veterans Affairs, (C) the provision of hospital and domiciliary care and medical treatment under chapter 17 of this title, (D) any other activity of the Department of Veterans Affairs as the Secretary shall determine appropriate, or (E) in the case of an individual who is receiving educational assistance under chapter 106 of title 10, activities relating to the administration of such chapter at Department of Defense, Coast Guard, or National Guard facilities. An individual may elect, in a manner prescribed by the Secretary, to be paid in advance an amount equal to 40 percent of the total amount of the work-study allowance agreed to be paid under the agreement in return for the individual's agreement to perform the number of hours of work specified in the agreement (but not more than an amount equal to 50 times the applicable hourly minimum wage).

"(2) For the purposes of paragraph (1) of this subsection and subsection (e) of this section, the term 'applicable hourly minimum wage' means (A) the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)), or (B) the hourly minimum wage under comparable law of the State in which the services are to be performed, if such wage is higher than the wage referred to in clause (A) and the Secretary has made a determination to pay such higher wage."

Subsec. (a)(1). Pub. L. 107–14 substituted "hereinafter" for "hereafter".

1998—Subsec. (a)(1). Pub. L. 105–368 substituted "An individual may elect, in a manner prescribed by the

Secretary, to be paid in advance'' for ''An individual shall be paid in advance'' in last sentence.

1992—Subsec. (a)(1). Pub. L. 102–568 substituted ''40 percent'' for ''40 per centum'' and inserted before period at end ''(but not more than an amount equal to 50 times the applicable hourly minimum wage)''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1685 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 2(c)(2), substituted ''subchapter II of chapter 77'' for ''subchapter IV of chapter 3''.

Pub. L. 102–16, § 10(a)(5), redesignated cls. (1) to (5) as cls. (A) to (E), respectively, and inserted in cl. (E) '', Coast Guard, or National Guard'' after ''Department of Defense''.

Subsec. (a)(2). Pub. L. 102–16, § 6(b)(1), inserted ''and subsection (e) of this section'' after ''subsection''.

Subsec. (b). Pub. L. 102–16, § 6(b)(2), inserted '', subject to the provisions of subsection (e) of this section,'' after ''shall'' in first sentence.

Subsec. (e). Pub. L. 102–40 substituted ''5315'' for ''3115'' in par. (2)(B)(ii) and ''5314'' for ''3114'' in two places in par. (2)(B)(iii).

Pub. L. 102–16, § 6(a), added subsec. (e).

1989—Pub. L. 101–237, § 405(d)(4)(A), substituted ''Work-study allowance'' for ''Veteran-student services'' as section catchline.

Subsec. (a). Pub. L. 101–237, § 423(b)(1), substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

Pub. L. 101–237, § 405(a)(1), (b), (d)(2)(A), (C), (D), designated existing provisions as par. (1), substituted ''Such work-study allowance shall be paid in an amount equal to the applicable hourly minimum wage times the number of hours worked during the applicable period, in return for such individual's agreement to perform services, during or between periods of enrollment, aggregating not more than a number of hours equal to 25 times the number of weeks in the semester or other applicable enrollment period,'' for ''Such work-study allowance shall be paid in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)) times two hundred and fifty or $625, whichever is the higher, in return for such veteran-student's agreement to perform services, during or between periods of enrollment, aggregating two hundred and fifty hours during a semester or other applicable enrollment period,'' in second sentence, added cl. (5), substituted references to individuals for references to veteran-students, struck out third and fourth sentences which read as follows: ''An agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours. The amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $2.50, whichever is the higher.'', and added par. (2).

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

Pub. L. 101–237, § 405(a)(2), (c), (d)(1), substituted ''subsection (a)(1) of this section'' for ''subsection (a) of this section'', ''individuals who are pursuing programs of rehabilitation, education, or training under chapter 30, 31, 32, or 34 of this title or chapter 106 of title 10, at a rate equal to at least three-quarters of that required of a full-time student'' for ''veteran-students who are pursuing full-time programs of rehabilitation, education, or training under chapter 30, 31, 32, or 34 of this title'', ''30 percent'' for ''30 per centum'', and ''an individual ceases to be at least a three-quarter-time student before completing such agreement, the individual'' for ''the veteran ceases to be a full-time student before completing such agreement, the veteran''.

Subsec. (c). Pub. L. 101–237, § 423(b)(1), substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

Pub. L. 101–237, § 405(d)(2)(B), (E)–(G), substituted ''individuals'' for ''veterans'' and for ''veteran-students'' wherever appearing, substituted ''individual's'' for ''veteran's'' in cl. (2), and substituted ''individual'' for ''veteran'' wherever appearing in cls. (1) to (3).

Subsec. (d). Pub. L. 101–237, § 405(d)(2)(B), substituted ''individuals'' for ''veteran-students''.

1986—Subsec. (b). Pub. L. 99–576 substituted ''rehabilitation, education, or training under chapter 30, 31, 32, or 34 of this title'' for ''education or training under chapters 31 and 34 of this title''.

1982—Subsec. (a). Pub. L. 97–295 inserted ''(29 U.S.C. 206(a))'' after ''Act of 1938'' the first time it appeared.

1980—Subsec. (d). Pub. L. 96–466 substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

1977—Subsec. (a). Pub. L. 95–202 substituted ''Such work-study allowance shall be paid in an amount equal to either the amount of the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times two hundred and fifty or $625, whichever is the higher,'' for ''Such work-study allowance shall be paid in the amount of $625'' and, in the provisions relating to periods of service of less than two hundred and fifty hours, substituted ''amount of the work-study allowance to be paid under any such agreement shall be determined by multiplying the number of hours of work performed by the veteran-student under such agreement times either the hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 during the period the work is to be performed or $2.50, whichever is the higher'' for ''amount of the work-study allowance to be paid shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours'' and ''A veteran-student shall be paid in advance an amount equal to 40 per centum of the total amount of the work-study allowance agreed to be paid under the agreement to perform the number of hours of work specified in the agreement'' for provisions setting a flat amount of $250 in advance or a lesser amount in the case of any agreement providing for periods of less than one hundred hours.

1976—Subsec. (b). Pub. L. 94–502, § 208, inserted provision permitting the veteran who ceases to be a full-time student to complete the agreement, with the approval of the Administrator.

Subsec. (c). Pub. L. 94–502, § 211(11), substituted ''the Administrator shall conduct'' for ''he shall conduct'', ''the Administrator shall prescribe,'' for ''he shall prescribe,'', and ''the veteran's'' for ''his'' in two places.

1974—Subsec. (a). Pub. L. 93–508, § 205(1), (2), substituted ''the amount of $625'' for ''in advance in the amount of $250'', and ''aggregating two hundred and fifty hours'' for ''aggregating one hundred hours'', and substituted provisions that an agreement may be entered into for the performance of services for periods of less than two hundred and fifty hours, in which case the amount of the work-study allowance to be paid shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours and that in the case of any agreement providing for the performance of services for less than one hundred hours, the amount of the advance payment shall bear the same ratio to the number of hours of work agreed to be performed as $625 bears to two hundred and fifty hours, for provisions that advances of lesser amounts may be made in return for agreements to perform services for periods of less than one hundred hours, and that the amount of such advance shall bear the same ratio to the number of hours of work agreed to be performed as $250 bears to one hundred hours.

Subsec. (c). Pub. L. 93–508, § 205(3), struck out parenthetical provisions relating to a limit of eight-hundred man-years or their equivalent during any fiscal year.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title III, § 306(h)(2), Dec. 16, 2003, 117 Stat. 2661, provided that: ''The amendments made by subsections (e), (f), and (g) [amending this section and section 3512 of this title and repealing subchapter III of chapter 36 of this title] shall take effect 90 days after the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title I, § 107(b), Dec. 27, 2001, 115 Stat. 984, provided that: ''The amendment made by this section [amending this section] shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after the date of the enactment of this Act [Dec. 27, 2001].''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 202(b), Nov. 11, 1998, 112 Stat. 3326, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to agreements entered into under section 3485 of title 38, United States Code, on or after January 1, 1999.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 405(a)–(d)(2), (4)(A) of Pub. L. 101–237 effective May 1, 1990, and applicable to services performed on or after that date, see section 405(e) of Pub. L. 101–237, set out as a note under section 16136 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

[§§ 3486, 3487. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, sections 1686 and 1687 of this chapter were repealed.

Section 1686, added Pub. L. 93–508, title III, § 302(a), Dec. 3, 1974, 88 Stat. 1591; amended Pub. L. 97–35, title XX, § 2005(b), Aug. 13, 1981, 95 Stat. 783, which related to educational loans to any eligible veteran to whom former section 1662(a)(2) of this title applied, was repealed by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

Section 1687, added Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1686; renumbered § 1687, Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, which related to discontinuance of educational assistance allowance by Administrator, was repealed by Pub. L. 92–540, title IV, § 401(6), Oct. 24, 1972, 86 Stat. 1090.

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

§ 3490. Purpose

It is the purpose of this subchapter (1) to encourage and assist veterans who have academic deficiencies to attain a high school education or its equivalent and to qualify for and pursue courses of higher education, (2) to assist eligible veterans to pursue postsecondary education through tutorial assistance where required, and (3) to encourage educational institutions to develop programs which provide special tutorial, remedial, preparatory, or other educational or supplementary assistance to such veterans.

(Added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 79, § 1690; renumbered § 3490, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1690 of this title as this section.

§ 3491. Elementary and secondary education and preparatory educational assistance

(a) In the case of any eligible veteran who—

(1) has not received a secondary school diploma (or an equivalency certificate), or

(2) is not on active duty and who, in order to pursue a program of education for which the veteran would otherwise be eligible, needs refresher courses, deficiency courses, or other preparatory or special educational assistance to qualify for admission to an appropriate educational institution,

the Secretary may, without regard to 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'', approve the enrollment of such veteran in an appropriate course or courses or other special educational assistance program.

(b)(1) The Secretary shall pay to an eligible veteran pursuing a course or courses or program pursuant to subsection (a)(2) of this section, an educational assistance allowance as provided in sections 3481 and 3482(a) or (b) of this title.

(2) The Secretary shall pay to an eligible veteran described in subsection (a)(1) of this section who is pursuing a course or courses or program under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate) an educational assistance allowance (A) at the rate of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same course, courses, or program, or (B) at the institutional full-time rate provided in section 3482(a) of this title, whichever is the lesser.

(c) The provisions of section 3473(d)(1)[1] of this title, relating to the disapproval of enrollment in certain courses, shall be applicable to the en-

[1] See References in Text note below.

rollment of an eligible veteran who, while serving on active duty, enrolls in one or more courses under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate).

(Added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 79, § 1691; amended Pub. L. 92–540, title III, § 305, Oct. 24, 1972, 86 Stat. 1081; Pub. L. 94–502, title II, § 211(12), Oct. 15, 1976, 90 Stat. 2389; Pub. L. 96–466, title III, § 311, Oct. 17, 1980, 94 Stat. 2194; Pub. L. 97–295, § 4(43), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 97–306, title II, § 203(b), Oct. 14, 1982, 96 Stat. 1434; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3491 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 3473(d)(1) of this title, referred to in subsec. (c), was repealed by Pub. L. 102–568, title III, § 313(a)(3)(A), Oct. 29, 1992, 106 Stat. 4332.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1691 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3471'' for ''1671'' in concluding provisions.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3481 and 3482(a)'' for ''1681 and 1682(a)'' in par. (1) and ''3482(a)'' for ''1682(a)'' in par. (2).

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3473(d)(1)'' for ''1673(d)(1)''.

1989—Subsecs. (a), (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1982—Subsec. (a). Pub. L. 97–295, § 4(43)(A), inserted ''of this title'' after ''section 1671''.

Subsec. (b)(2). Pub. L. 97–295, § 4(43)(B), inserted ''of this title'' after ''section 1682(a)''.

Subsec. (c). Pub. L. 97–306 substituted ''section 1673(d)(1)'' for ''section 1673(d)''.

1980—Subsec. (a). Pub. L. 96–466, § 311(1), in provisions preceding par. (1) struck out ''not on active duty'' after ''eligible veteran'', in par. (1) struck out ''at the time of the veteran's discharge or release from active duty'' after ''(or an equivalency certificate)'', and in par. (2) inserted ''is not on active duty and who,'' before ''in order to pursue''.

Subsec. (b). Pub. L. 96–466, § 311(2), designated existing provisions as par. (1), substituted reference to subsec. (a)(2) of this section for reference to subsec. (a) of this section, and added par. (2).

Subsec. (c). Pub. L. 96–466, § 311(3), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–502 substituted ''the veteran's'' for ''his'' and ''the veteran'' for ''he'' wherever appearing.

1972—Subsec. (b). Pub. L. 92–540 struck out provision relating to the approval in excess of half-time training as defined pursuant to section 1684 of this title of enrollment in adult evening secondary school courses.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except that subsec. (b)(2) of this section, as added by section 311(2)(C) of Pub. L. 96–466, not applicable to any person receiving educational assistance under this chapter on Oct. 1, 1980, for the pursuit of a program of education in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for pursuit of such program, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3492. Tutorial assistance

(a) In the case of any eligible veteran who—

(1) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

(2) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education,

the Secretary may approve individualized tutorial assistance for such veteran if such assistance is necessary for the veteran to complete such program successfully.

(b) The Secretary shall pay to an eligible veteran receiving tutorial assistance pursuant to subsection (a) of this section, in addition to the educational assistance allowance provided in section 3482 of this title, the cost of such tutorial assistance in an amount not to exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized, upon certification by the educational institution that—

(1) the individualized tutorial assistance is essential to correct a deficiency of the eligible veteran in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

(2) the tutor chosen to perform such assistance is qualified and is not the eligible veteran's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

(3) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

(Added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80, § 1692; amended Pub. L. 92–540, title III, § 306, Oct. 24, 1972, 86 Stat. 1081; Pub. L. 93–508, title II, § 206, Dec. 3, 1974, 88 Stat. 1583; Pub. L. 94–502, title II, § 209, Oct. 15, 1976, 90 Stat. 2388; Pub. L. 95–202, title I, § 102(5), Nov. 23, 1977, 91 Stat. 1434; Pub. L. 96–466, title II, §§ 201(5), 211(5), title III, § 312, Oct. 17, 1980, 94 Stat. 2188, 2190, 2195; Pub. L. 98–543, title II, § 202(4), Oct. 24, 1984, 98 Stat. 2742; Pub. L. 100–689, title I, § 107(c)(1), (2)(A), Nov. 18, 1988, 102 Stat. 4169; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3492 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 1692 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3482'' for ''1682''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Pub. L. 100–689, § 107(c)(2)(A), substituted ''Tutorial assistance'' for ''Special supplementary assistance'' in section catchline.

Subsec. (b). Pub. L. 100–689, § 107(c)(1), substituted ''$100'' and ''$1,200'' for ''$84'' and ''$1,008'', respectively.

1984—Subsec. (b). Pub. L. 98–543 substituted ''$84'' and ''$1,008'' for ''$76'' and ''$911'', respectively.

1980—Subsec. (b). Pub. L. 96–466, § 211(5), substituted ''$76'' and ''$911'' for ''$72'' and ''$869'', respectively.

Pub. L. 96–466, § 201(5), substituted ''$72'' and ''$869'' for ''$69'' and ''$828'', respectively.

Subsec. (b)(2). Pub. L. 96–466, § 312, inserted ''and is not the eligible veteran's parent, spouse, child (whether

or not married or over eighteen years of age), brother, or sister'' after ''is qualified''.

1977—Subsec. (b). Pub. L. 95–202 substituted ''$69'' and ''$828'' for ''$65'' and ''$780'', respectively.

1976—Subsec. (b). Pub. L. 94–502 substituted ''$65'' for ''$60'' and ''$780'' for ''$720'', respectively.

1974—Subsec. (b). Pub. L. 93–508 substituted ''$60 per month, for a maximum of twelve months, or until a maximum of $720'' for ''$50 per month, for a maximum of nine months, or until a maximum of $450''.

1972—Subsec. (a)(2). Pub. L. 92–540, § 306(1), struck out ''marked'' before ''deficiency''.

Subsec. (b). Pub. L. 92–540, § 306(2), inserted ''or until a maximum of $450 is utilized,'' after ''nine months''.

Subsec. (b)(1). Pub. L. 92–540, § 306(1), struck out ''marked'' before ''deficiency''.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Oct. 1, 1984, see section 205 of Pub. L. 98–543, set out as a note under section 3108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 201(5) and 211(5) of Pub. L. 96–466 effective Oct. 1, 1980, and Jan. 1, 1981, respectively, see section 802(b) of Pub. L. 96–466, set out as a note under section 3482 of this title.

Amendment by section 312 of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

§ 3493. Effect on educational entitlement

The educational assistance allowance or cost of individualized tutorial assistance authorized by this subchapter shall be paid without charge to any period of entitlement the veteran may have earned pursuant to section 3461(a) of this title.

(Added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80, § 1693; renumbered § 3493 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1693 of this title as this section and substituted ''3461(a)'' for ''1661(a)''.

[§§ 3495 to 3498. Vacant]

CODIFICATION

Prior to renumbering of sections 1651 to 1693 of this chapter as sections 3451 to 3493 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, sections 1695 to 1698 of this chapter, which comprised former subchapter VI of this chapter, were repealed by Pub. L. 96–466, title VI, § 601(a)(1), title VIII, § 802(f), Oct. 17, 1980, 94 Stat. 2208, 2218, effective Oct. 1, 1980.

Section 1695, added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80, set forth purpose of former subchapter VI relating to a predischarge education program and defined ''eligible person'' for purposes of such subchapter.

Section 1696, added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 80; amended Pub. L. 92–540, title I, § 102(5), title III, § 307, Oct. 24, 1972, 86 Stat. 1075, 1081; Pub. L. 93–508, title I, § 102(5), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93–602, title II, § 203(c), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title II, §§ 201(4), 210(5), 211(13), Oct. 15, 1976, 90 Stat. 2385, 2388, 2389; Pub. L. 95–202, title I, § 102(6), Nov. 23, 1977, 91 Stat. 1434, related to payment of an educational assistance allowance.

Section 1697, added Pub. L. 91–219, title II, § 204(a)(4), Mar. 26, 1970, 84 Stat. 81, related to educational and vocational guidance.

Section 1698, added Pub. L. 92–540, title III, § 308, Oct. 24, 1972, 86 Stat. 1082, § 1697A; renumbered § 1698 and amended Pub. L. 94–502, title II, §§ 210(3), 211(14), Oct. 15, 1976, 90 Stat. 2388, 2389; Pub. L. 95–202, title III, § 302(b), Nov. 23, 1977, 91 Stat. 1441, related to coordination with and participation by Department of Defense in carrying out functions and duties of Department of Defense under predischarge education program.

CHAPTER 35—SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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3501. Definitions.

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3565. Children of certain Philippine veterans.
3566. Definitions.

AMENDMENTS

2000—Pub. L. 106–419, title I, § 111(f)(1)(B), Nov. 1, 2000, 114 Stat. 1831, added item 3564.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1700 to 1766 as 3500 to 3566, respectively.

1989—Pub. L. 101–237, title IV, §§ 406(a)(2), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2082, 2092, added item 1737 and substituted ''Secretary'' for ''Administrator'' in item 1761.

1988—Pub. L. 100–689, title I, § 124(c)(2), Nov. 18, 1988, 102 Stat. 4175, struck out items 1737 ''Education loans'' and 1738 ''Accelerated payment of educational assistance allowances''.

1986—Pub. L. 99–576, title III, § 314(b)(3), Oct. 28, 1986, 100 Stat. 3274, amended items 1720 and 1721 generally.

1977—Pub. L. 95–202, title II, § 201(c)(2), Nov. 23, 1977, 91 Stat. 1438, added item 1738.

1976—Pub. L. 94–502, title III, § 309(a), Oct. 15, 1976, 90 Stat. 2391, substituted ''SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE'' for ''WAR ORPHANS' AND WIDOWS' EDUCATION ASSISTANCE'' in chapter heading.

1974—Pub. L. 93–508, title III, § 303(b), Dec. 3, 1974, 88 Stat. 1592, added item 1737.

1972—Pub. L. 92–540, title IV, § 405, Oct. 24, 1972, 86 Stat. 1091, substituted in item 1733 ''Special assistance for the educationally disadvantaged'' for ''Measurement of courses'', in item 1734 ''Apprenticeship or other on-job training; correspondence courses'' for ''Overcharges by educational institutions'', and in item 1736 ''Specialized vocational training courses'' for ''Discontinuance of allowances'', and struck out item 1722 ''Change of program'', item 1725 ''Period of operation for approval'', and item 1737 ''Specialized vocational training courses''.

1970—Pub. L. 91–219, title II, § 207(b), Mar. 26, 1970, 84 Stat. 82, inserted item 1763.

1968—Pub. L. 90–631, § 2(a)(2), (h)(1), Oct. 23, 1968, 82 Stat. 1332, 1333, inserted ''AND WIDOWS'' '' after ''WAR ORPHANS'' '' in chapter heading, and added item 1700.

1966—Pub. L. 89–613, § 2, Sept. 30, 1966, 80 Stat. 862, added heading of Subchapter VII ''PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS'' and items 1765 and 1766.

Pub. L. 89–358, § 3(a)(10), Mar. 3, 1966, 80 Stat. 21, struck out items 1726, 1763 to 1768, and subchapter VII heading and items 1771 to 1778 thereunder.

1963—Pub. L. 88–126, § 5, Sept. 23, 1963, 77 Stat. 163, added heading of Subchapter VII ''STATE APPROVING AGENCIES'' and items 1771 to 1778.

SUBCHAPTER I—DEFINITIONS

§ 3500. Purpose

The Congress hereby declares that the educational program established by this chapter is for the purpose of providing opportunities for education to children whose education would otherwise be impeded or interrupted by reason of the disability or death of a parent from a disease or injury incurred or aggravated in the Armed Forces after the beginning of the Spanish-American War, and for the purpose of aiding such children in attaining the educational status which they might normally have aspired to and obtained but for the disability or death of such parent. The Congress further declares that the educational program extended to the surviving spouses of veterans who died of service-connected disabilities and to spouses of veterans with a service-connected total disability permanent in nature is for the purpose of assisting them in preparing to support themselves and their families at a standard of living level which the veteran, but for the veteran's death or service disability, could have expected to provide for the veteran's family.

(Added Pub. L. 90–631, § 2(a)(1), Oct. 23, 1968, 82 Stat. 1331, § 1700; amended Pub. L. 94–502, title III, § 310(1), Oct. 15, 1976, 90 Stat. 2391; renumbered § 3500, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1700 of this title as this section.

1976—Pub. L. 94–502 substituted ''surviving spouses'' for ''widows'', ''spouses'' for ''wives'', and ''the veteran's'' for ''his'' in two places.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section 6(a) of Pub. L. 90–631 provided that: ''The amendments made by the first section and sections 2, 3, and 5 of this Act [see Tables for classification] shall take effect on the first day of the second calendar month which begins after the date of the enactment of this Act [Oct. 23, 1968].''

§ 3501. Definitions

(a) For the purposes of this chapter and chapter 36 of this title—

(1) The term ''eligible person'' means—

(A) a child of a person who—

(i) died of a service-connected disability,

(ii) has a total disability permanent in nature resulting from a service-connected disability, or who died while a disability so evaluated was in existence, or

(iii) at the time of application for benefits under this chapter is a member of the Armed Forces serving on active duty listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power.

(B) the surviving spouse of any person who died of a service-connected disability,

(C) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for benefits under this chapter is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(D)(i) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability, or (ii) the surviving spouse of a veteran who died while a disability so evaluated was in existence,

arising out of active military, naval, or air service after the beginning of the Spanish-American War, but only if such service did not terminate under dishonorable conditions. The standards and criteria for determining wheth-

er or not a disability arising out of such service is service connected shall be those applicable under chapter 11 of this title.

(2) The term ''child'' includes individuals who are married and individuals who are above the age of twenty-three years.

(3) The term ''duty with the Armed Forces'' as used in section 3512 of this title means (A) active duty, (B) active duty for training for a period of six or more consecutive months, or (C) active duty for training required by section 12103(d) of title 10.

(4) The term ''guardian'' includes a fiduciary legally appointed by a court of competent jurisdiction, or any other person who has been appointed by the Secretary under section 5502 of this title to receive payment of benefits for the use and benefit of the eligible person.

(5) The term ''program of education'' means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill the requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also includes any preparatory course described in section 3002(3)(B) of this title. Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title. Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the Scholastic Aptitude Test (SAT), Law School Admission Test (LSAT), Graduate Record Exam (GRE), and Graduate Management Admission Test (GMAT)) and national tests providing an opportunity for course credit at institutions of higher learning (such as the Advanced Placement (AP) exam and College-Level Examination Program (CLEP)).

(6) The term ''educational institution'' means any public or private secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution, or any other institution if it furnishes education at the secondary school level or above. Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).

(7) The term ''special restorative training'' means training furnished under subchapter V of this chapter.

(8) The term ''total disability permanent in nature'' means any disability rated total for the purposes of disability compensation which is based upon an impairment reasonably certain to continue throughout the life of the disabled person.

(9) The term ''training establishment'' means any establishment providing apprentice or other training on the job, including those under the supervision of a college or university or any State department of education, or any State apprenticeship agency, or any State board of vocational education, or any joint apprenticeship committee, or the Bureau of Apprenticeship and Training established pursuant to the Act of August 16, 1937, popularly known as the ''National Apprenticeship Act'' (29 U.S.C. 50 et seq.), or any agency of the Federal Government authorized to supervise such training.

(10) The term ''institution of higher learning'' means a college, university, or similar institution, including a technical or business school, offering postsecondary level academic instruction that leads to an associate or higher degree if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. Such term shall also include a hospital offering educational programs at the postsecondary level without regard to whether the hospital grants a postsecondary degree. Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

(11) The term ''standard college degree'' means an associate or higher degree awarded by (A) an institution of higher learning that is accredited as a collegiate institution by a recognized regional or national accrediting agency; or (B) an institution of higher learning that is a ''candidate'' for accreditation as that term is used by the regional or national accrediting agencies; or (C) an institution of higher learning upon completion of a course which is accredited by an agency recognized to accredit specialized degree-level programs. For the purpose of this section, the accrediting agency must be one recognized by the Secretary of Education under the provisions of section 3675 of this title.

(b) If an eligible person has attained the person's majority and is under no known legal disability, all references in this chapter to ''parent or guardian'' shall refer to the eligible person.

(c) Any provision of this chapter which requires any action to be taken by or with respect to the parent or guardian of an eligible person who has not attained such person's majority, or who, having attained such person's majority, is under a legal disability, shall not apply when the Secretary determines that its application would not be in the best interest of the eligible person, would result in undue delay, or would

not be administratively feasible. In such a case the Secretary, where necessary to protect the interest of the eligible person, may designate some other person (who may be the eligible person) as the person by or with respect to whom the action so required should be taken.

(d) No eligible person may be afforded educational assistance under this chapter unless such person was discharged or released after each period such person was on duty with the Armed Forces under conditions other than dishonorable, or while such person is on duty with the Armed Forces.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1193, § 1701; Pub. L. 86–236, § 1, Sept. 8, 1959, 73 Stat. 471; Pub. L. 86–785, §§ 1–3, Sept. 14, 1960, 74 Stat. 1023; Pub. L. 88–361, § 1, July 7, 1964, 78 Stat. 297; Pub. L. 89–222, § 3, Sept. 30, 1965, 79 Stat. 896; Pub. L. 89–349, § 1, Nov. 8, 1965, 79 Stat. 1313; Pub. L. 89–358, § 4(j), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90–631, § 2(b), (c), Oct. 23, 1968, 82 Stat. 1332; Pub. L. 91–24, § 9(a), June 11, 1969, 83 Stat. 34; Pub. L. 91–584, § 1, Dec. 24, 1970, 84 Stat. 1575; Pub. L. 92–540, title III, § 309, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 93–295, title III, § 302, May 31, 1974, 88 Stat. 184; Pub. L. 94–502, title III, §§ 302, 310(2)–(5), Oct. 15, 1976, 90 Stat. 2389, 2391; Pub. L. 96–466, title III, § 327(a), title VIII, § 801(c), Oct. 17, 1980, 94 Stat. 2197, 2216; Pub. L. 98–160, title VII, § 702(12), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3501 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104–106, div. A, title XV, § 1501(e)(2)(C), Feb. 10, 1996, 110 Stat. 501; Pub. L. 106–419, title I, §§ 114(a), 122(a), Nov. 1, 2000, 114 Stat. 1833; Pub. L. 107–103, title I, §§ 108(a), 110(a), Dec. 27, 2001, 115 Stat. 985, 986; Pub. L. 108–454, title I, § 106(a), Dec. 10, 2004, 118 Stat. 3602.)

REFERENCES IN TEXT

The National Apprenticeship Act, referred to in subsec. (a)(9), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

PRIOR PROVISIONS

Prior sections 3501 to 3505 were renumbered sections 6101 to 6105 of this title, respectively.

AMENDMENTS

2004—Subsec. (a)(5). Pub. L. 108—454 inserted at end ''Such term also includes national tests for admission to institutions of higher learning or graduate schools (such as the Scholastic Aptitude Test (SAT), Law School Admission Test (LSAT), Graduate Record Exam (GRE), and Graduate Management Admission Test (GMAT)) and national tests providing an opportunity for course credit at institutions of higher learning (such as the Advanced Placement (AP) exam and College-Level Examination Program (CLEP)).''

2001—Subsec. (a)(1)(D). Pub. L. 107–103, § 108(a), inserted cl. (i) designation after ''(D)'' and cl. (ii) designation after ''or''.

Subsec. (a)(6). Pub. L. 107–103, § 110(a), inserted at end ''Such term also includes any private entity (that meets such requirements as the Secretary may establish) that offers, either directly or under an agreement with another entity (that meets such requirements), a course or courses to fulfill requirements for the attainment of a license or certificate generally recognized as necessary to obtain, maintain, or advance in employment in a profession or vocation in a high technology occupation (as determined by the Secretary).''

2000—Subsec. (a)(5). Pub. L. 106–419, § 122(a), inserted at end ''Such term also includes licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided such tests and the licensing or credentialing organizations or entities that offer such tests are approved by the Secretary in accordance with section 3689 of this title.''

Pub. L. 106–419, § 114(a), inserted at end ''Such term also includes any preparatory course described in section 3002(3)(B) of this title.''

1996—Subsec. (a)(3)(C). Pub. L. 104–106 substituted ''section 12103(d) of title 10'' for ''section 511(d) of title 10''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1701 of this title as this section.

Subsec. (a)(3). Pub. L. 102–83, § 5(c)(1), substituted ''3512'' for ''1712''.

Subsec. (a)(4). Pub. L. 102–40 substituted ''5502'' for ''3202''.

Subsec. (a)(11). Pub. L. 102–83, § 5(c)(1), substituted ''3675'' for ''1775''.

1989—Subsecs. (a)(4), (c). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1983—Subsec. (a)(1)(A)(iii), (C). Pub. L. 98–160, § 702(12)(A), struck out '', United States Code,'' after ''title 37'' and inserted a comma after ''regulations issued thereunder''.

Subsec. (a)(9). Pub. L. 98–160, § 702(12)(B), substituted ''the Act of August 16, 1937, popularly known as the 'National Apprenticeship Act' (29 U.S.C. 50 et seq.)'' for ''chapter 4C of title 29''.

1980—Subsec. (a). Pub. L. 96–466, § 801(c)(1), inserted ''and chapter 36 of this title'' after ''chapter'' in introductory text.

Subsec. (a)(9). Pub. L. 96–466, § 801(c)(2), substituted ''The'' for ''For the purposes of this chapter and chapter 36 of this title, the''.

Subsec. (a)(10). Pub. L. 96–466, §§ 327(a), 801(c)(2), substituted ''The'' for ''For the purposes of this chapter and chapter 36 of this title, the'' and inserted provision including within the term ''institution of higher learning'' an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.

Subsec. (a)(11). Pub. L. 96–466, § 801(c)(2), (3), substituted ''The'' for ''For the purposes of this chapter and chapter 36 of this title, the'' and ''Secretary of Education'' for ''Commissioner of Education''.

1976—Subsec. (a)(1). Pub. L. 94–502, § 310(2), substituted ''surviving spouse'' for ''widow'' and ''spouse'' for ''wife'' in two places.

Subsec. (a)(10), (11). Pub. L. 94–502, § 302, added pars. (10), (11).

Subsec. (b). Pub. L. 94–502, § 310(3), substituted ''the person's'' for ''his'' and ''the eligible person'' for ''the eligible person himself''.

Subsec. (c). Pub. L. 94–502, § 310(4), substituted ''such person's'' for ''his'' and ''be the eligible person'' for ''be the eligible person himself'' in the parenthetical phrase.

Subsec. (d). Pub. L. 94–502, § 310(5), substituted ''such person'' for ''he'' in three places.

1974—Subsec. (a)(4). Pub. L. 93–295 substituted ''any other person who has been appointed by the Administrator under section 3202 of this title to receive payment of benefits for the use and benefit of the eligible person'' for ''any person who is determined by the Administrator in accordance with section 3202 of this title to be otherwise legally vested with the care of the eligible person''.

1972—Subsec. (a)(6). Pub. L. 92–540, § 309(1), inserted reference to correspondence school within the definition of ''educational institution''.

Subsec. (a)(9). Pub. L. 92–540, § 309(2), added par. (9).

1970—Subsec. (a)(1)(A). Pub. L. 91–584, § 1(3), added cl. (iii).

Subsec. (a)(1)(C), (D). Pub. L. 91–584, § 1(5), (6), added subpar. (C) and redesignated former subpar. (C) as (D).

1969—Subsec. (a)(2). Pub. L. 91–24 substituted ''the age of twenty-three years'' for ''the age of twenty-one years''.

1968—Subsec. (a)(1). Pub. L. 90–631, § 2(b), extended the definition of ''eligible person'' to include the widow of any person who died of a service-connected disability, or the wife of any person who has a total disability permanent in nature resulting from a service-connected disability, or the widow of a veteran who died while a disability so evaluated was in existence.

Subsec. (d). Pub. L. 90–631, § 2(c), substituted provisions requiring that any eligible person seeking educational assistance under this chapter to have been discharged or released after each period he was on duty with the armed forces under conditions other than dishonorable, or while he is on duty with the armed forces, for provisions setting forth the purposes of educational assistance programs established under this chapter.

1966—Subsec. (a)(1). Pub. L. 89–358, § 4(j)(3), struck out ''and prior to the end of the induction period'' after ''Spanish-American War''.

Subsec. (a)(3)(C). Pub. L. 89–358, § 4(j)(1), substituted ''section 511(d) of title 10'' for ''section 1013(c)(1) of title 50''.

Subsec. (a)(8) to (10). Pub. L. 89–358, § 4(j)(2), struck out par. (8) including the Canal Zone in the term ''State'' (now incorporated in section 101(20) of this title) and par. (9) defining ''induction period'' and redesignated par. (10) as (8).

Subsec. (d). Pub. L. 89–358, § 4(j)(3), struck out ''and prior to the end of the induction period'' after ''Spanish-American War''.

1965—Subsec. (a)(1). Pub. L. 89–349, § 1(a), (b), generally amended par. (1) and, among other changes, substituted ''after the beginning of the Spanish-American War and prior to the end of the induction period'' for ''during the Spanish-American War, World War I, World War II, the Korean conflict, or the induction period'' in first sentence.

Pub. L. 89–222 substituted ''such service'' the second time it appears for ''service during the Spanish-American War, World War I, World War II, or the Korean conflict'' and struck out provisions which prescribed the applicable standards and criteria for determining whether or not a disability arising out of service during the induction period is service-connected.

Subsec. (a)(9). Pub. L. 89–349, § 1(c), struck out provisions which included the period beginning Sept. 16, 1940, and ending Dec. 6, 1941, and the period beginning Jan. 1, 1947, and ending June 26, 1950, within the term ''induction period''.

Subsec. (d). Pub. L. 89–349, § 1(d), substituted ''after the beginning of the Spanish-American War and prior to the end of the induction period'' for ''during the Spanish-American War, World War I, World War II, the Korean conflict, or the induction period''.

1964—Subsec. (a)(1). Pub. L. 88–361, § 1(a), included the child of a person who has a service-connected disability, or who died while such disability existed.

Subsec. (a)(10). Pub. L. 88–361, § 1(b), added par. (10).

Subsec. (d). Pub. L. 88–361, § 1(c), inserted ''disability or'' before ''death'' wherever appearing.

1960—Subsec. (a)(1). Pub. L. 86–785, § 1, substituted ''the Korean conflict, or the induction period'' for ''or the Korean conflict'', inserted ''arising out of service during the Spanish-American War, World War I, World War II, or the Korean conflict'' after ''whether or not a disability'', and inserted the sentence relating to the criteria for determining whether a disability arising out of service during the induction period is service connected.

Subsec. (a)(9). Pub. L. 86–785, § 2, added par. (9).

Subsec. (d). Pub. L. 86–785, § 3, substituted ''the Korean conflict, or the induction period'' for ''or the Korean conflict''.

1959—Subsecs. (a)(1), (d). Pub. L. 86–236 inserted reference to Spanish-American War.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 110(a) of Pub. L. 107–103 applicable to enrollments in courses beginning on or after Dec. 27, 2001, see section 110(b) of Pub. L. 107–103, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 122(a) of Pub. L. 106–419 effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as a note under section 3032 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(c), (h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective first day of second calendar month following May 31, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–631 effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as an Effective Date note under section 3500 of this title.

ELIGIBLE PERSON

Pub. L. 86–785, § 5, Sept. 14, 1960, 74 Stat. 1024, as amended by Pub. L. 87–815, § 2(b), Oct. 15, 1962, 76 Stat. 927, which contained a savings clause which granted five years of educational training to certain children of veterans dying of disabilities incurred subsequent to the Korean War, was repealed by Pub. L. 91–24, § 14(c), June 11, 1969, 83 Stat. 35, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder.

CHILDREN OF SPANISH-AMERICAN WAR VETERANS

Period of eligibility for educational assistance of children of Spanish-American War Veterans, see section 2 of Pub. L. 86–236, set out as a note under section 3512 of this title.

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92–540, set out as a note under section 3512 of this title.

The period referred to in section 1712 [now 3512] of this title as ending five years from Nov. 8, 1965, in the case of any individual who is an ''eligible person'' within the meaning of subsec. (a)(1) of this section solely by virtue of the amendment made by section 1 of Pub. L. 89–349 to this section, and who is above the age of seventeen years and below the age of twenty-three years on Nov. 8, 1965, see section 2 of Pub. L. 89–349, set out as a note under section 3512 of this title.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

§ 3510. Eligibility and entitlement generally

Each eligible person shall, subject to the provisions of this chapter, be entitled to receive educational assistance.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1194, § 1710; renumbered § 3510, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1710 of this title as this section.

§ 3511. Duration of educational assistance

(a)(1) Each eligible person shall be entitled to educational assistance under this chapter for a period not in excess of 45 months (or to the equivalent thereof in part-time training). In no event may the aggregate educational assistance afforded to a spouse made eligible under both 3501(a)(1)(D)(i)[1] and 3501(a)(1)(D)(ii) of this title exceed 45 months.

(2)(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 shall not—

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

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

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

(i) 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; and

(ii) 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) 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)(ii) of this paragraph.

(b) If any eligible person pursuing a program of education, or of special restorative training, under this chapter ceases to be an "eligible person" because—

(1) the parent or spouse from whom eligibility is derived is found no longer to have a "total disability permanent in nature", as defined in section 3501(a)(8) of this title,

(2) the parent or spouse from whom eligibility is derived based upon the provisions of section 3501(a)(1)(A)(iii) or 3501(a)(1)(C) of this title is no longer listed in one of the categories specified therein, or

(3) the spouse, as an eligible person under section 3501(a)(1)(D) of this title, is divorced, without fault on such person's part, from the person upon whose disability such person's eligibility is based,

then such eligible person (if such person has sufficient remaining entitlement) may, nevertheless, be afforded educational assistance under this chapter until the end of the quarter or semester for which enrolled if the educational institution in which such person is enrolled is operated on a quarter or semester system, or if the educational institution is not so operated until the end of the course, or until 12 weeks have expired, whichever first occurs.

(c) Any entitlement used by an eligible person as a result of eligibility under section 3501(a)(1)(A)(iii), 3501(a)(1)(C), or 3501(a)(1)(D)(i) of this title shall be deducted from any entitlement to which such person may subsequently be entitled under this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1194, § 1711; Pub. L. 88–361, § 2, July 7, 1964, 78 Stat. 297; Pub. L. 89–358, § 4(k), Mar. 3, 1966, 80 Stat. 24; Pub. L. 90–631, §§ 1(c), 2(d), Oct. 23, 1968, 82 Stat. 1331, 1332; Pub. L. 91–24, § 9(b), June 11, 1969, 83 Stat. 34; Pub. L. 91–584, § 2, Dec. 24, 1970, 84 Stat. 1575; Pub. L. 94–502, title III, §§ 303, 310(6), Oct. 15, 1976, 90 Stat. 2390, 2391; renumbered § 3511 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–127, § 2(c), Oct. 10, 1991, 105 Stat. 620; Pub. L. 107–103, title I, §§ 103(a), 108(b)(1), (c)(1), Dec. 27, 2001, 115 Stat. 979, 985.)

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–103, § 108(c)(1), inserted at end "In no event may the aggregate educational assistance afforded to a spouse made eligible under both 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii) of this title exceed 45 months."

Subsec. (a)(2)(B)(i). Pub. L. 107–103, § 103(a), substituted "to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;" for ", in connection with the Persian Gulf War, to serve on active duty under section 672(a), (d), or (g), 673, 673b, or 688 of title 10;".

Subsec. (c). Pub. L. 107–103, § 108(b)(1), added subsec. (c).

1991—Pub. L. 102–83, § 5(a), renumbered section 1711 of this title as this section.

Subsec. (a). Pub. L. 102–127 designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted "3501(a)(8)" for "1701(a)(8)" in par. (1), "3501(a)(1)(A)(iii) or 3501(a)(1)(C)" for "1701(a)(1)(A)(iii) or 1701(a)(1)(C)" in par. (2), and "3501(a)(1)(D)" for "1701(a)(1)(D)" in par. (3).

1976—Subsec. (a). Pub. L. 94–502, § 303(1), substituted "45 months" for "thirty-six months".

Subsec. (b). Pub. L. 94–502, §§ 303(2), 310(6), substituted "the spouse" for "she", "such person's" for "her" in two places, "such person" for "he or she" in two places, and "12 weeks" for "nine weeks".

1970—Subsec. (b). Pub. L. 91–584 added par. (2), redesignated former par. (2) as (3), and substituted "1701(a)(1)(D)" for "1701(a)(1)(C)".

1969—Subsec. (b)(1). Pub. L. 91–24 substituted "section 1701(a)(8) of this title" for "section 1701(a)(10) of this title".

[1] So in original. Probably should be preceded by "sections".

1968—Subsec. (b). Pub. L. 90–631, §§1(c), 2(d), redesignated subsec. (d) as (b) and extended applicability of subsec. from any child pursuing a program of education or training to any eligible person pursuing such program, and expanded causes of persons ceasing to be ''eligible persons'' to include spouses no longer found to have a ''total disability permanent in nature'' as defined under section 1701(a)(10) of this title, and the individual, as an eligible person under section 1701(a)(1)(C) of this title, is divorced, without fault on her part, from the person upon whose disability her eligibility is based. Former subsec. (b), setting forth reductions in the period of entitlement of an eligible person, was struck out.

Subsec. (c). Pub. L. 90–631, §1(c), struck out subsec. (c) which required an eligible person to elect either educational assistance or vocational rehabilitation when such person is entitled to both, or becomes entitled to vocational rehabilitation after receiving educational assistance.

Subsec. (d). Pub. L. 90–631, §1(c), redesignated subsec. (d) as (b).

1966—Subsec. (b). Pub. L. 89–358 substituted ''34'' for ''33'' and inserted ''or under chapter 33 of this title as in effect before February 1, 1965''.

1964—Subsec. (d). Pub. L. 88–361 added subsec. (d).

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 103(a) of Pub. L. 107–103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107–103, set out as a note under section 3013 of this title.

Pub. L. 107–103, title I, §108(c)(4), Dec. 27, 2001, 115 Stat. 985, provided that: ''The amendments made by this subsection [amending this section and section 3512 of this title] shall apply with respect to any determination (whether administrative or judicial) of the eligibility of a spouse or surviving spouse for educational assistance under chapter 35 of title 38, United States Code, made on or after the date of the enactment of this Act [Dec. 27, 2001], whether pursuant to an original claim for such assistance or pursuant to a reapplication or attempt to reopen or readjudicate a claim for such assistance.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 303 and 310(6) of Pub. L. 94–502 effective Oct. 1, 1976, and Oct. 15, 1976, respectively, see section 703(a), (b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–631 effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as an Effective Date note under section 3500 of this title.

§ 3512. Periods of eligibility

(a) The educational assistance to which an eligible person (within the meaning of section 3501(a)(1)(A) of this title) is entitled under section 3511 of this title or subchapter V of this chapter may be afforded the person during the period beginning on the person's eighteenth birthday, or on the successful completion of the person's secondary schooling, whichever first occurs, and ending on the person's twenty-sixth birthday, except that—

(1) if the person is above the age of compulsory school attendance under applicable State law, and the Secretary determines that the person's best interests will be served thereby, such period may begin before the person's eighteenth birthday;

(2) if the person has a mental or physical handicap, and the Secretary determines that the person's best interests will be served by pursuing a program of special restorative training or a specialized course of vocational training approved under section 3536 of this title, such period may begin before the person's eighteenth birthday, but not before the person's fourteenth birthday;

(3) if the Secretary first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or if the death of the parent from whom eligibility is derived occurs, after the eligible person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless paragraph (4) or (5) applies) such period shall end 8 years after the date that is elected by that person to be the beginning date of entitlement under section 3511 of this title or subchapter V of this chapter if—

(A) the Secretary approves that beginning date;

(B) the eligible person elects that beginning date by not later than the end of the 60-day period beginning on the date on which the Secretary provides written notice to that person of that person's opportunity to make such election, such notice including a statement of the deadline for the election imposed under this subparagraph; and

(C) that beginning date—

(i) in the case of a person whose eligibility is based on a parent who has a service-connected total disability permanent in nature, is the date determined pursuant to subsection (d), or any date between the two dates described in subsection (d); and

(ii) in the case of a person whose eligibility is based on the death of a parent, is between—

(I) the date of the parent's death; and

(II) the date of the Secretary's decision that the death was service-connected;

(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person's entitlement shall be the date of the Secretary's decision that the parent has a service-connected total disability permanent in nature, or that the parent's death was service-connected, whichever is applicable;

(5) if the person serves on duty with the Armed Forces as an eligible person after the person's eighteenth birthday but before the person's twenty-sixth birthday, then such period shall end 8 years after the person's first discharge or release from such duty with the Armed Forces (excluding from such 8 years all periods during which the eligible person served on active duty before August 1, 1962, pursuant to (A) a call or order thereto issued to the person as a Reserve after July 30, 1961, or (B) an extension of enlistment, appointment, or period of duty with the Armed Forces pursuant to section 2 of Public Law 87–117); however, in no event shall such period be extended beyond the person's thirty-first birthday by reason of this paragraph;

(6) if the person becomes eligible by reason of the provisions of section 3501(a)(1)(A)(iii) of this title after the person's eighteenth birth-

day but before the person's twenty-sixth birthday, then (unless paragraph (5) applies) such period shall end eight years after the date on which the person becomes eligible by reason of such provisions, but in no event shall such period be extended beyond the person's thirty-first birthday by reason of this clause;

(7)(A) if such person is enrolled in an educational institution regularly operated on the quarter or semester system and such period ends during a quarter or semester, such period shall be extended to the end of the quarter or semester; or

(B) if such person is enrolled in an educational institution operated on other than a quarter or semester system and such period ends after a major portion of the course is completed, such period shall be extended to the end of the course, or until 12 weeks have expired, whichever first occurs; and

(8) if the person is pursuing a preparatory course described in section 3002(3)(B) of this title, such period may begin on the date that is the first day of such course pursuit, notwithstanding that such date may be before the person's eighteenth birthday, except that in no case may such person be afforded educational assistance under this chapter for pursuit of secondary schooling unless such course pursuit would otherwise be authorized under this subsection.

(b)(1)(A) Except as provided in subparagraph (B) or (C), a person made eligible by subparagraph (B) or (D) of section 3501(a)(1) of this title may be afforded educational assistance under this chapter during the 10-year period beginning on the date (as determined by the Secretary) the person becomes an eligible person within the meaning of section 3501(a)(1)(B), 3501(a)(1)(D)(i), or 3501(a)(1)(D)(ii) of this title. In the case of a surviving spouse made eligible by clause (ii) of section 3501(a)(1)(D) of this title, the 10-year period may not be reduced by any earlier period during which the person was eligible for educational assistance under this chapter as a spouse made eligible by clause (i) of that section.

(B) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph may, subject to the Secretary's approval, elect a later beginning date for the 10-year period than would otherwise be applicable to the person under that subparagraph. The beginning date so elected may be any date between the beginning date determined for the person under subparagraph (A) and whichever of the following dates applies:

(i) The date on which the Secretary notifies the veteran from whom eligibility is derived that the veteran has a service-connected total disability permanent in nature.

(ii) The date on which the Secretary determines that the veteran from whom eligibility is derived died of a service-connected disability.

(C) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(B) of this title by reason of the death of a person on active duty may be afforded educational assistance under this chapter during the 20-year period beginning on the date (as determined by the Secretary) such person becomes an eligible person within the meaning of such section.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section 3501(a)(1)(B), (C), or (D) of this title) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willful misconduct, such person shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) October 1, 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time as the Secretary determines, from the evidence, that such person was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Secretary shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(c) Notwithstanding the provisions of subsection (a) of this section, an eligible person may be afforded educational assistance beyond the age limitation applicable to such person under such subsection if (1) such person suspends pursuit of such person's program of education after having enrolled in such program within the time period applicable to such person under such subsection, (2) such person is unable to complete such program after the period of suspension and before attaining the age limitation applicable to such person under such subsection, and (3) the Secretary finds that the suspension was due to conditions beyond the control of such person; but in no event shall educational assistance be afforded such person by reason of this subsection beyond the age limitation applicable to such person under subsection (a) of this section plus a period of time equal to the period such person was required to suspend the pursuit of such person's program, or beyond such person's thirty-first birthday, whichever is earlier.

(d) The term ''first finds'' as used in this section means the effective date of the rating or date of notification to the veteran from whom eligibility is derived establishing a service-connected total disability permanent in nature whichever is more advantageous to the eligible person.

(e) No person made eligible by section 3501(a)(1)(C) of this title may be afforded educational assistance under this chapter beyond 10 years after the date on which the spouse was listed by the Secretary concerned in one of the categories referred to in such section or December 24, 1970, whichever last occurs.

[(f) Repealed. Pub. L. 108–183, title III, § 306(f)(2), Dec. 16, 2003, 117 Stat. 2661.]

[(g) Repealed. Pub. L. 107–103, title I, § 108(b)(2), Dec. 27, 2001, 115 Stat. 985.]

(h) Notwithstanding any other provision of this section, if an eligible person, during the delimiting period otherwise applicable to such person under this section, serves on active duty pursuant to an order to active duty issued under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10, or is involuntarily ordered to full-time National Guard duty under section 502(f) of title 32, such person shall be granted an extension of such delimiting period for the length of time equal to the period of such active duty plus four months.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1194, § 1712; Pub. L. 87–815, § 2(a), Oct. 15, 1962, 76 Stat. 926; Pub. L. 87–819, § 2, Oct. 15, 1962, 76 Stat. 935; Pub. L. 88–361, § 3, July 7, 1964, 78 Stat. 297; Pub. L. 90–77, title III, § 307(a), Aug. 31, 1967, 81 Stat. 189; Pub. L. 90–631, § 2(e), Oct. 23, 1968, 82 Stat. 1333; Pub. L. 91–219, title II, § 208, Mar. 26, 1970, 84 Stat. 83; Pub. L. 91–584, § 3, Dec. 24, 1970, 84 Stat. 1575; Pub. L. 92–540, title IV, § 402(1), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 93–337, § 2, July 10, 1974, 88 Stat. 292; Pub. L. 94–502, title III, §§ 304, 310(7)–(9), Oct. 15, 1976, 90 Stat. 2390, 2391; Pub. L. 95–202, title II, § 203(a)(2), (b)(2), Nov. 23, 1977, 91 Stat. 1439, 1440; Pub. L. 96–466, title III, §§ 321, 322, Oct. 17, 1980, 94 Stat. 2195; Pub. L. 97–66, title VI, § 605(a), Oct. 17, 1981, 95 Stat. 1036; Pub. L. 97–295, § 4(44), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 98–160, title VII, § 702(13), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99–576, title III, § 313, Oct. 28, 1986, 100 Stat. 3273; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3512 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 106–419, title I, §§ 112, 114(b), Nov. 1, 2000, 114 Stat. 1831, 1833; Pub. L. 107–14, §§ 7(f)(1), 8(a)(6), June 5, 2001, 115 Stat. 33, 34; Pub. L. 107–103, title I, §§ 103(b), 108(b)(2), (c)(2), (3), Dec. 27, 2001, 115 Stat. 979, 985; Pub. L. 107–330, title III, § 308(e)(1), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 108–183, title III, §§ 303(a), 306(f)(2), Dec. 16, 2003, 117 Stat. 2659, 2661; Pub. L. 108–454, title I, § 105, Dec. 10, 2004, 118 Stat. 3602.)

REFERENCES IN TEXT

Section 2 of Public Law 87–117 [75 Stat. 242], referred to in subsec. (a)(5), was set out as a note under former section 263 of Title 10, Armed Forces.

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108–454, § 105(1), substituted ''in subparagraph (B) or (C)'' for ''in subparagraph (B)''.

Subsec. (b)(1)(C). Pub. L. 108–454, § 105(2), added subpar.(C).

2003—Subsec. (f). Pub. L. 108–183, § 306(f)(2), struck out subsec. (f) which related to period of eligibility for loans under subchapter III of chapter 36 of this title.

Subsec. (h). Pub. L. 108–183, § 303(a), inserted ''or is involuntarily ordered to full-time National Guard duty under section 502(f) of title 32,'' after ''title 10,''.

2002—Subsec. (a)(3). Pub. L. 107–330, § 308(e)(1)(A)(i), substituted ''paragraph (4) or (5)'' for ''paragraph (4)'' in introductory provisions.

Subsec. (a)(3)(C)(i). Pub. L. 107–330, § 308(e)(1)(A)(ii), substituted ''subsection (d), or any date between the two dates described in subsection (d)'' for ''subsection (d)''.

Subsec. (a)(4) to (8). Pub. L. 107–330, § 308(e)(1)(B)–(D), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and substituted ''paragraph (5)'' for ''paragraph (4)'' in par. (6).

2001—Subsec. (a)(3)(B). Pub. L. 107–14, § 7(f)(1)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the eligible person makes that election after the person's eighteenth birthday but before the person's twenty-sixth birthday; and''.

Subsec. (a)(3)(C)(i). Pub. L. 107–14, § 7(f)(1)(B), substituted ''the date determined pursuant to'' for ''between the dates described in''.

Subsec. (a)(5). Pub. L. 107–14, § 8(a)(6)(A), substituted ''paragraph (4)'' for ''clause (4) of this subsection''.

Subsec. (b)(1). Pub. L. 107–103, § 108(c)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''No person made eligible by section 3501(a)(1)(B) or (D) of this title may be afforded educational assistance under this chapter beyond 10 years after whichever of the following last occurs:

''(A) The date on which the Secretary first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature.

''(B) The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence.

''(C) The date on which the Secretary determines that the spouse from whom eligibility is derived died of a service-connected disability.''

Subsec. (b)(2). Pub. L. 107–14, § 8(a)(6)(B), substituted ''willful'' for ''willfull''.

Subsec. (b)(3). Pub. L. 107–103, § 108(c)(3), struck out par. (3) which read as follows:

''(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any eligible person (as defined in clause (B) or (D) of section 3501(a)(1) of this title) may, subject to the approval of the Secretary, be permitted to elect a date referred to in subparagraph (B) of this paragraph to commence receiving educational assistance benefits under this chapter. The date so elected shall be the beginning date of the delimiting period applicable to such person under this section.

''(B) The date which an eligible person may elect under subparagraph (A) of this paragraph is any date during the period beginning on the date the person became an eligible person within the meaning of clause (B) or (D) of section 3501(a)(1) of this title and ending on the date determined under subparagraph (A), (B), or (C) of paragraph (1) of this subsection to be applicable to such person.''

Subsec. (g). Pub. L. 107–103, § 108(b)(2), struck out subsec. (g) which read as follows: ''Any entitlement used by any eligible person as a result of eligibility under the provisions of section 3501(a)(1)(A)(iii) or 3501(a)(1)(C) of this title shall be deducted from any entitlement to which such person may subsequently become entitled under the provisions of this chapter.''

Subsec. (h). Pub. L. 107–103, § 103(b), added subsec. (h).

2000—Subsec. (a)(3). Pub. L. 106–419, § 112, substituted ''8 years after the date that is elected by that person to be the beginning date of entitlement under section 3511 of this title or subchapter V of this chapter if—'' and subpars. (A) to (C) for ''8 years after, whichever date last occurs: (A) the date on which the Secretary first finds that the parent from whom eligibility is derived has a service-connected total disability permanent in nature, or (B) the date of death of the parent from whom eligibility is derived;''.

Subsec. (a)(7). Pub. L. 106–419, § 114(b), added par. (7).

1991—Pub. L. 102–83, § 5(a), renumbered section 1712 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3501(a)(1)(A)'' for ''1701(a)(1)(A)'' and ''3511'' for ''1711'' in introductory provisions, ''3536'' for ''1736'' in par. (2), and ''3501(a)(1)(A)(iii)'' for ''1701(a)(1)(A)(iii)'' in par. (5).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3501(a)(1)(B)'' for ''1701(a)(1)(B)'' in pars. (1) and (2) and ''3501(a)(1)'' for ''1701(a)(1)'' in par. (3)(A) and (B).

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''3501(a)(1)(C)'' for ''1701(a)(1)(C)''.

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted ''3501(a)(1)(B)'' for ''1701(a)(1)(B)'' and ''3462(a)(2)'' for ''1662(a)(2)''.

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted ''3501(a)(1)(A)(iii) or 3501(a)(1)(C)'' for ''1701(a)(1)(A)(iii) or 1701(a)(1)(C)''.

1989—Subsecs. (a)(1) to (3), (b)(1)(A), (C), (2), (3)(A), (c). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (b)(3). Pub. L. 99–576 added par. (3).

1983—Subsec. (b)(2)(C). Pub. L. 98–160 substituted ''October 1, 1980'' for ''the effective date of the Veterans' Rehabilitation and Education Amendments of 1980''.

1982—Subsec. (a). Pub. L. 97–295, § 4(44)(A), inserted ''of this title'' after ''section 1701(a)(1)(A)'', and inserted a colon after ''last occurs'' in cl. (3).

Subsec. (b). Pub. L. 97–295, § 4(44)(B), substituted ''of this title'' for ''of this chapter'' wherever appearing.

Subsec. (e). Pub. L. 97–295, § 4(44)(C), substituted ''December 24, 1970'' for ''the date of enactment of this subsection''.

1981—Subsec. (b)(1). Pub. L. 97–66 substituted ''after whichever of the following last occurs'' for ''after whichever last occurs'' in the provisions preceding subpar. (A), ''The date'' for ''the date'' and ''permanent in nature.'' for ''permanent in nature, or;'' in subpar. (A), and ''The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence'' for ''the date of death of the spouse from whom eligibility is derived'' in subpar. (B), and added subpar. (C).

1980—Subsec. (a)(5), (6). Pub. L. 96–466, § 321, added cl. (5) and redesignated former cl. (5) as (6).

Subsec. (b)(2). Pub. L. 96–466, § 322, inserted ''made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest'' after ''application'', inserted ''so'' after ''that such veteran was'', and inserted provision relating to the running of the delimiting period when an extension of the applicable delimiting period is granted an eligible person.

1977—Subsec. (b). Pub. L. 95–202, § 203(a)(2), designated existing provisions as par. (1) and former cls. (1) and (2) thereof as cls. (A) and (B), and added par. (2).

Subsecs. (f), (g). Pub. L. 95–202, § 203(b)(2), added subsec. (f) and redesignated former subsec. (f) as (g).

1976—Subsec. (a). Pub. L. 94–502, §§ 304(1), (2), 310(7), substituted ''the person'' for ''he'' and ''him'' and ''the person's'' for ''his'' respectively, in the provision preceding cl. (1), and in cls. (1), (2), (3), and (4), in cls. (3) and (4) ''8 years'' for ''five years'', and cl. (5), ''such person'' for ''he'', ''a quarter or semester'' for ''the last half of a quarter or semester'', ''period ends after a major portion of the course is completed'' for ''periods ends during the last half of the course'', and ''12 weeks'' for ''nine weeks''.

Subsec. (c). Pub. L. 94–502, § 310(8), substituted ''such person'' for ''him'' and ''he'' wherever appearing, and ''such person's'' for ''his'' wherever appearing.

Subsec. (d). Pub. L. 94–502, § 304(3), struck out subsec. (d) which authorized educational assistance to an eligible person beyond the age limits applicable to him under subsec. (a) of this section by a period of time equivalent to the period of time between his eighteenth birthday or the date of his application, whichever was later, and the date of approval of his application, but in no event beyond his thirty-first birthday. Former subsec. (e) redesignated (d).

Subsec. (e). Pub. L. 94–502, §§ 304(3), 310(9), redesignated subsec. (f) as (e) and substituted ''the spouse'' for ''her spouse''. Former subsec. (e) redesignated (d).

Subsecs. (f), (g). Pub. L. 94–502, §§ 304(3), 310(9), redesignated subsec. (g) as (f) and substituted ''such person'' for ''he''. Former subsec. (f) redesignated (e).

1974—Subsec. (b). Pub. L. 93–337, § 2(1), substituted ''may be afforded educational assistance under this chapter beyond 10 years'' for ''may be afforded educational assistance under this chapter beyond eight years''.

Subsec. (f). Pub. L. 93–337, § 2(2), substituted ''may be afforded educational assistance under this chapter beyond 10 years'' for ''may be afforded educational assistance under this chapter beyond eight years''.

1972—Subsec. (a)(2). Pub. L. 92–540 substituted reference to section 1736 of this title for reference to section 1737 of this title.

1970—Subsec. (a)(3). Pub. L. 91–219, § 208(1), substituted ''last occurs'' for ''first occurs''.

Subsec. (b). Pub. L. 91–584, § 3(1), substituted ''1701(a)(1)(B) or (D)'' for ''1701(a)(1)(B) or (C)''.

Subsec. (e). Pub. L. 91–219, § 208(2), added subsec. (e).

Subsecs. (f), (g). Pub. L. 91–584, § 3(2), added subsecs. (f) and (g).

1968—Subsec. (a). Pub. L. 90–631, § 2(e)(1), inserted ''(within the meaning of section 1701(a)(1)(A))'' after ''to which an eligible person''.

Subsec. (b). Pub. L. 90–631, § 2(e)(2), substituted provisions that no person made eligible by section 1701(a)(1)(B) or (C) may be afforded educational assistance under this chapter beyond 8 years after whichever of the specified events last occurs for provisions that no eligible person may be afforded educational assistance under this chapter unless he was discharged or released after each period he was on duty with the armed forces under conditions other than dishonorable, or while he is on duty with the armed forces.

1967—Subsec. (a). Pub. L. 90–77 substituted ''twenty-sixth'' for ''twenty-third'' birthday in text preceding cl. (1) and in cls. (3) and (4).

1964—Subsec. (a)(3). Pub. L. 88–361, § 3(a), inserted provisions relating to parents with a service-connected total disability permanent in nature.

Subsec. (d). Pub. L. 88–361, § 3(b), added subsec. (d).

1962—Subsec. (a). Pub. L. 87–815, among other changes, struck out from cl. (3), provisions which it incorporated into cl. (4), added to such cl. (4) the exclusion from the computation of the five year period, of all periods during which the person served on active duty before Aug. 1, 1962, pursuant to a call as a Reserve after July 30, 1961, or an extension of duty pursuant to Pub. L. 87–117, and redesignated former cl. (4) as (5).

Subsec. (c). Pub. L. 87–819 added subsec. (c).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title III, § 303(b), Dec. 16, 2003, 117 Stat. 2659, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of September 11, 2001.''

Amendment by section 306(f)(2) of Pub. L. 108–183 effective 90 days after Dec. 16, 2003, see section 306(h)(2) of Pub. L. 108–183, set out as a note under section 3485 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title III, § 308(e)(2), Dec. 6, 2002, 116 Stat. 2828, provided that: ''The amendments made by this subsection [amending this section] shall take effect November 1, 2000.''

EFFECTIVE DATE OF 2001 AMENDMENTS

Amendment by section 103(b) of Pub. L. 107–103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107–103, set out as a note under section 3013 of this title.

Amendment by section 108(c)(2), (3) of Pub. L. 107–103 applicable with respect to any determination, whether administrative or judicial, of the eligibility of a spouse or surviving spouse for educational assistance under this chapter made on or after Dec. 27, 2001, whether pursuant to an original claim for such assistance or pursuant to a reapplication or attempt to reopen or readjudicate a claim for such assistance, see section 108(c)(4) of Pub. L. 107–103, set out as a note under section 3511 of this title.

Pub. L. 107–14, § 7(f)(2), June 5, 2001, 115 Stat. 34, provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect as if enacted on November 1, 2000, immediately after the enactment of the Veterans Benefits and Health Care Improvement Act of 2000 [Public Law 106–419].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to May 31, 1976, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 304 and 310(7)–(9) of Pub. L. 94–502 effective Oct. 1, 1976, and Oct. 15, 1976, respectively, see section 703(a), (b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–631 effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as an Effective Date note under section 3500 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

TERMINATION OF ELIGIBILITY PERIOD FOR A WIFE, WIDOW, OR ELIGIBLE PERSON

Section 604 of Pub. L. 92–540, as amended by Pub. L. 93–337, § 3, July 10, 1974, 88 Stat. 292, provided that a wife or widow who was eligible to pursue a program of education exclusively by correspondence under section 1786 [now 3686] of this title or entitled to the benefits of section 1733(a) [now 3533(a)] of this title, had 10 years from Oct. 24, 1972, to complete such program of education or receive such benefits and provided that an eligible person, as defined in section 1701(a)(1) [now 3501(a)(1)] of this title, who was entitled to pursue a program of apprenticeship or other on-job training under section 1787 [now 3687] of this title had 10 years from Oct. 24, 1972, to complete such program or training.

COMMENCEMENT OF DELIMITING PERIOD IN CASES OF DEATH OR OF SERVICE-CONNECTED TOTAL DISABILITY PERMANENT IN NATURE OCCURRING BEFORE DECEMBER 1, 1968

Section 2(f) of Pub. L. 90–631, as amended Pub. L. 97–66, title VI, § 605(b), Oct. 17, 1981, 95 Stat. 1036, provided that in the case of any person who was an eligible person by reason of section 1701(a)(1)(B) or (D) [now 3501(a)(1)(B) or (D)] of this title, if the date of death or the date of the determination of service-connected total disability permanent in nature of the person from whom eligibility was derived occurred before Dec. 1, 1968, the 10-year delimiting period referred to in subsec. (b)(1) of this section was to run from such date and provided that if the death of the person from whom such eligibility was derived occurred before Dec. 1, 1968, and the date on which the Administrator of Veterans' Affairs determined that such person died of a service-connected disability was later than Dec. 1, 1968, the delimiting period referred to in subsec. (b)(1) of this section was to run from the date on which the Administrator made such determination.

TERMINATION OF ELIGIBILITY PERIODS

Section 307(b) of Pub. L. 90–77 provided that anyone made eligible for educational assistance under this chapter by Pub. L. 90–77, and who, on the effective date of Pub. L. 90–77, was below the age of twenty-six, was to remain eligible for said assistance until the expiration of the five year period beginning on the effective date of Pub. L. 90–77 as set out in the Effective Date of 1967 Amendment note under section 101 of this title, excluding from such period any time which elapsed between applying for the assistance and the determination of eligibility by the Administrator of Veterans' Affairs, and also provided that the period of eligibility was to terminate regardless of the five year period when the eligible person reached the age of thirty-one.

Pub. L. 89–349, § 2, Nov. 8, 1965, 79 Stat. 1313, provided that anyone made eligible for educational assistance under section 1701 [now 3501] of this title by reason of the amendment of that section by Pub. L. 89–349, and who was between the ages of seventeen and twenty-three on Nov. 8, 1965, was to remain eligible for said assistance until the expiration of the five year period beginning on Nov. 8, 1965.

Section 5 of Pub. L. 88–361 provided that anyone made eligible for educational assistance under section 1701 [now 3501] of this title by reason of the amendment of that section by Pub. L. 88–361, and who was between the ages of seventeen and twenty-three on July 7, 1964, was to remain eligible for said assistance until the expiration of the five year period beginning on July 7, 1964, excluding from such period any time which elapsed between applying for the assistance and the determination of eligibility by the Administrator of Veterans' Affairs, and also provided that the period of eligibility was to terminate regardless of the five year period when the eligible person reached the age of thirty-one.

EXTENSION OF PERIOD FOR COMPLETION OF EDUCATION

Pub. L. 87–377, § 2, Oct. 4, 1961, 75 Stat. 806, which contained a savings clause which granted five years of educational training to certain children in the Philippines, was repealed by Pub. L. 91–24, § 14(d), June 11, 1969, 83 Stat. 35, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder.

CHILDREN OF SPANISH-AMERICAN WAR VETERANS

Pub. L. 86–236, § 2, Sept. 8, 1959, 73 Stat. 471, as amended by Pub. L. 87–815, § 2(b), Oct. 15, 1962, 76 Stat. 927, which contained a savings clause which granted five years of educational training to certain children of Spanish-American War veterans, was repealed by Pub. L. 91–24, § 14(b), June 11, 1969, 83 Stat. 35, effective June 11, 1969, except as to any indebtedness which may be due the Government as the result of any benefits granted thereunder.

§ 3513. Application

The parent or guardian of a person or the eligible person if such person has attained legal majority for whom educational assistance is sought under this chapter shall submit an application to the Secretary which shall be in such form and contain such information as the Secretary shall prescribe. If the Secretary finds that the person on whose behalf the application is submitted is an eligible person, the Secretary shall approve the application provisionally. The Secretary shall notify the parent or guardian or eligible person (if the person has attained legal majority) of the provisional approval or of the disapproval of the application.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1195, § 1713; Pub. L. 94–502, title III, § 305, Oct. 15, 1976, 90 Stat. 2390; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3513, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1713 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1976—Pub. L. 94–502 inserted reference to eligible person who have attained legal majority and substituted

''the Administrator shall approve'' for ''he shall approve''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3514. Processing of applications

(a) Further processing of an application for educational assistance and the award of such assistance shall be pursuant to the requirements of subchapters III and IV of this chapter unless the parent or guardian requests special restorative training for the eligible person, in which case the application will be processed under subchapter V of this chapter.

(b) If the request for special restorative training is approved, educational assistance will be afforded pursuant to the terms of subchapter V of this chapter. If the request for special restorative training is disapproved, or if approved the restorative training is completed or discontinued, any educational assistance subsequently afforded will be in accordance with subchapters III and IV of this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1195, § 1714; renumbered § 3514, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1714 of this title as this section.

SUBCHAPTER III—PROGRAM OF EDUCATION

§ 3520. Educational and vocational counseling

The Secretary may, upon request, arrange for educational or vocational counseling for persons eligible for benefits under this chapter to assist such persons in selecting their educational, vocational, or professional objectives and in developing their programs of education.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1195, § 1720; Pub. L. 90–631, § 2(g), Oct. 23, 1968, 82 Stat. 1333; Pub. L. 91–584, § 4, Dec. 24, 1970, 84 Stat. 1576; Pub. L. 92–540, title III, § 310, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 94–502, title III, § 310(10), Oct. 15, 1976, 90 Stat. 2391; Pub. L. 96–466, title III, § 323(a), Oct. 17, 1980, 94 Stat. 2196; Pub. L. 97–295, § 4(45), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 99–576, title III, § 314(a), Oct. 28, 1986, 100 Stat. 3273; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3520, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1720 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1986—Pub. L. 99–576 substituted ''Educational and vocational counseling'' for ''Development of educational plan'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) Upon provisional approval of an application for educational assistance for a person eligible within the meaning of section 1701(a)(1)(A) of this title, the Administrator may, upon request, arrange for educational or vocational counseling to assist the parent or guardian and the eligible person in selecting such person's educational, vocational, or professional objective and in developing such person's program of education. During, or after, such counseling, the parent or guardian shall prepare for the eligible person an educational plan which shall set forth the selected objective, the proposed program of education, a list of the educational institutions at which such program would be pursued, an estimate of the sum which would be required for tuition and fees in completion of such program, and such other information as the Administrator shall require. This educational plan shall be signed by the parent or guardian and shall become an integral part of the application for educational assistance under this chapter.

''(b) The Administrator may, on request, arrange for educational counseling for persons eligible for educational assistance under section 1701(a)(1)(B), (C), or (D) of this title.''

1982—Subsec. (a). Pub. L. 97–295, § 4(45)(A), inserted ''of this title'' after ''section 1701(a)(1)(A)''.

Subsec. (b). Pub. L. 97–295, § 4(45)(B), substituted ''of this title'' for ''of this chapter''.

1980—Subsec. (a). Pub. L. 96–466 substituted ''the Administrator may, upon request, arrange for'' for ''the Administrator shall arrange for, and the eligible person shall take advantage of,'' and struck out provision that educational or vocational counseling not be required where the eligible person has been accepted for, or is pursuing, courses which lead to a standard college degree, at an approved institution.

1976—Subsec. (a). Pub. L. 94–502 substituted ''such person's'' for ''his'' in two places.

1972—Subsec. (a). Pub. L. 92–540 inserted provisions exempting the eligible person from counseling where such person has been accepted for, or is pursuing, courses which lead to a standard college degree at an approved institution.

1970—Subsec. (b). Pub. L. 91–584 substituted ''section 1701(a)(1)(B), (C), or (D)'' for ''section 1701(a)(1) (B) or (C)''.

1968—Subsec. (a). Pub. L. 90–631, § 2(g)(1), (2), designated existing provisions as subsec. (a) and inserted ''for a person eligible within the meaning of section 1701(a)(1)(A)'' after ''for educational assistance''.

Subsec. (b). Pub. L. 90–631, § 2(g)(3), added subsec. (b).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub, L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–631 effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as an Effective Date note under section 3500 of this title.

§ 3521. Approval of application

The Secretary shall approve an application if the Secretary finds that—

(1) the proposed program of education constitutes a ''program of education'' as that term is defined in this chapter;

(2) the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered;

(3) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title; and

(4) it does not appear that the enrollment in or pursuit of such person's program of education would violate any provisions of this chapter or chapter 36 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1196, § 1721; Pub. L. 94–502, title III, § 310(11), Oct. 15, 1976, 90 Stat. 2391; Pub. L. 96–466, title III, § 324, Oct. 17, 1980, 94 Stat. 2196; Pub. L. 99–576, title III, § 314(b)(1), (2), Oct. 28, 1986, 100 Stat. 3273; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3521, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1721 of this title as this section.

1989—Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1986—Pub. L. 99–576 substituted "Approval of application" for "Final approval of application" in section catchline, struck out "finally" before "approve an application" in introductory provisions, struck out former cl. (1) which read "section 1720 of this title has been complied with;", and redesignated cls. (2) to (5) as cls. (1) to (4), respectively.

1980—Pub. L. 96–466, among other changes, inserted provision conditioning approval of an application upon the educational institution's or training establishment's compliance with all the requirements of this chapter and chapter 36 of this title and substituted reference to the enrollment in or pursuit of such person's program of education violating any provisions of this chapter or chapter 36 of this title for reference to the pursuit of such program violating any provision of this chapter.

1976—Pub. L. 94–502 substituted "if the Administrator finds" for "if he finds".

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

[§ 3522. Vacant]

CODIFICATION

Prior to renumbering of sections 1700 to 1766 of this chapter as sections 3500 to 3566 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1722 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1196, which related to change of program by eligible person, was repealed by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090.

§ 3523. Disapproval of enrollment in certain courses

(a) The Secretary shall not approve the enrollment of an eligible person in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be a bona fide use in the pursuit of the person's present or contemplated business or occupation; or

(4) any independent study program except an accredited independent study program (including open circuit television) leading to a standard college degree.

(b) The Secretary shall not approve the enrollment of an eligible person in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible person is seeking.

(c) The Secretary shall not approve the enrollment of an eligible person in any course to be pursued by radio.

(d) The Secretary shall not approve the enrollment of an eligible person in any course which is to be pursued as a part of such person's regular secondary school education (except as provided in section 3533 of this title), but this subsection shall not prevent the enrollment of an eligible person in a course not leading to a standard college degree if the Secretary finds that such person has ended such person's secondary school education (by completion or otherwise) and that such course is a specialized vocational course pursued for the purpose of qualifying in a bona fide vocational objective.

(e) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such course is pursued at an approved institution of higher learning and the course is approved by the Secretary. The Secretary, in the Secretary's discretion, may deny or discontinue educational assistance under this chapter in the case of any eligible person in such an institution if the Secretary determines that such enrollment is not in the best interest of the eligible person or the Federal Government.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1196, § 1723; Pub. L. 86–785, § 4, Sept. 14, 1960, 74 Stat. 1024; Pub. L. 87–546, July 25, 1962, 76 Stat. 216; Pub. L. 91–219, title II, § 209, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92–540, title III, § 311, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 93–508, title II, § 207, Dec. 3, 1974, 88 Stat. 1583; Pub. L. 94–502, title III, §§ 306, 310(12)–(14), Oct. 15, 1976, 90 Stat. 2390, 2392; Pub. L. 96–466, title III, §§ 325, 326, 327(b), Oct. 17, 1980, 94 Stat. 2196, 2197; Pub. L. 97–306, title II, § 202(b), Oct. 14, 1982, 96 Stat. 1433; Pub. L. 101–237, title IV, § 423(b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3523 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 313(a)(7), Oct. 29, 1992, 106 Stat. 4333; Pub. L. 104–275, title I, § 104(b), Oct. 9, 1996, 110 Stat. 3327.)

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–275, § 104(b)(1), inserted "(including open circuit television)" after "accredited independent study program".

Subsec. (c). Pub. L. 104–275, § 104(b)(2), substituted "radio." for "radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television."

1992—Subsec. (a)(4). Pub. L. 102–568 substituted "an accredited independent study program" for "one".

1991—Pub. L. 102–83, § 5(a), renumbered section 1723 of this title as this section.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''3533'' for ''1733''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (a) to (e) and substituted ''Secretary's'' for ''Administrator's'' in subsec. (e).

1982—Subsec. (a). Pub. L. 97–306, § 202(b), struck out designation ''(1)'' before ''The Administrator'', redesignated cls. (A) to (D) as (1) to (4), respectively, in cl. (2) as so redesignated, substituted ''any sales or sales management course which does not provide specialized training within a specific vocational field;'' for ''any course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;'', and struck out par. (2) which had provided exceptions to the provisions of par. (1)(B) for persons pursuing the course while serving on active duty, institutions with an enrollment not exceeding 35 percent of eligible veterans and eligible persons, and instances of administrative hardship to the institution.

1980—Subsec. (a). Pub. L. 96–466, § 325, designated existing provisions as par. (1), redesignated cls. (1), (2), (3), and (4) as (A), (B), (C), and (D), respectively, and in cl. (B) as so redesignated, struck out reference to any sales or management course which does not provide specialized training within a specific vocational field and substituted reference to presenting evidence showing that at least one-half of the persons who completed such course over such period attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training for reference to submitting justification showing that at least one-half of the persons who completed such course over the preceding two-year period (but excluding persons who completed such course with assistance under this title while serving on active duty) have been employed in the occupational category for which the course was designed to provide training, and added par. (2).

Subsec. (c). Pub. L. 96–466, § 326, struck out provisions relating to the approval of the enrollment of an eligible person in any course to be pursued by correspondence or any course to be pursued at an educational institution not located in a State or in the Republic of the Philippines, substituted reference to subjects offered through open circuit television for reference to subjects offered through the medium of open circuit televised instruction, if the major portion of the course requires conventional classroom or laboratory attendance, and struck out provisions permitting the Administrator to deny or discontinue the educational assistance of any eligible person in a foreign educational institution upon a finding that such enrollment is not in the best interest of the eligible person or the Government.

Subsec. (e). Pub. L. 96–466, § 327(b), added subsec. (e).

1976—Subsec. (a). Pub. L. 94–502, §§ 306, 310(12), substituted ''the Administrator finds contains'' for ''he finds contains'' and added cl. (4).

Subsec. (c). Pub. L. 94–502, § 310(13), substituted ''the Administrator's'' for ''his'' and ''if the Administrator finds'' for ''if he finds''.

Subsec. (d). Pub. L. 94–502, § 310(14), substituted ''such person's'' for ''his'' in two places.

1974—Subsec. (a)(2). Pub. L. 93–508, § 207(1), substituted ''or in any other course with a vocational objective, unless the'' for ''unless the'', ''who completed'' for ''completing'', and '', and who are not unavailable for employment, have been employed in the occupational category for which the course was designed to provide training'' for ''have been employed in the sales or sales management field'', and inserted parenthetical provisions relating to the exclusion of persons who completed the course with assistance under this title in the computation of the number of people who completed the course.

Subsec. (a)(3). Pub. L. 93–508, § 207(2), substituted ''in character (or the advertising for which he finds contains significant avocational or recreational themes) unless the'' for ''in character unless the''.

Subsec. (c). Pub. L. 93–508, § 207(3), substituted ''an eligible person in any course to be'' for ''an eligible person in any course of institutional on-farm training, any course to be''.

Subsec. (d). Pub. L. 93–508, § 207(4), substituted ''course not leading to a standard college degree if the'' for ''course to be pursued below the college level if the''.

1972—Subsec. (c). Pub. L. 92–540, § 311(1), struck out prohibition on approval by the Administrator of the enrollment of an eligible person in any course of apprentice or other training on the job, inserted provision authorizing approval of correspondence courses as provided in section 1786 of this title, and substituted provision relating to approval by the Administrator of enrollment at an educational institution not located in a State or the Republic of the Philippines and provision authorizing the Administrator to deny or discontinue assistance, for provisions setting forth the criteria for approval by the Administrator of enrollment in a foreign educational institution in the case of any eligible person.

Subsec. (d). Pub. L. 92–540, § 311(2), inserted ''(except as provided in section 1733 of this title)'' after ''regular secondary school education''.

1970—Subsec. (a). Pub. L. 91–219 struck out ''dancing course'' from the enumeration of non-approved courses, inserted provisions directing the Administrator not to approve any enrollment in any sales or sales management course with some exceptions, and struck out reference to photography, entertainment, music, and enumerated sports or athletic course.

1962—Subsec. (c). Pub. L. 87–546 authorized the Administrator to approve enrollment in foreign educational institutions if the subjects to be taken are part of and creditable towards completion of an approved course in a ''principal institution'', the tuition and fees of the foreign institution are paid by the ''principal institution'', and such institution agrees to submit enrollment certificates and monthly certifications as to attendance, conduct, and progress to the Veterans' Administration.

1960—Subsec. (c). Pub. L. 86–785 substituted ''open circuit television (except as herein provided)'' for ''television'', and authorized the Administrator to approve enrollment in a course pursued in residence, leading to a standard college degree, which utilizes open circuit televised instruction, if the major portion of the course requires conventional classroom or laboratory attendance.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 202(c) of Pub. L. 97–306 provided that: ''The amendments made by this section [amending this section and section 1673 [renumbered 3473] of this title] shall take effect on October 1, 1982.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

§ 3524. Discontinuance for unsatisfactory progress

The Secretary shall discontinue the educational assistance allowance on behalf of an eligible person if, at any time, the Secretary finds that according to the regularly prescribed standards and practices of the educational institution such person is attending, the person's attendance, conduct, or progress is unsatisfactory. The Secretary may renew the payment of the educational assistance allowance only if the Secretary finds that—

(1) the eligible person will be resuming enrollment at the same educational institution in the same program of education and the educational institution has both approved such eligible person's reenrollment and certified it to the Department of Veterans Affairs; or

(2) in the case of a proposed change of either educational institution or program of education by the eligible person—

(A) the cause of the unsatisfactory attendance, conduct, or progress has been removed;

(B) the program proposed to be pursued is suitable to the eligible person's aptitudes, interests, and abilities; and

(C) if a proposed change of program is involved, the change meets the requirements for approval under section 3691 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1197, § 1724; Pub. L. 94–502, title III, §§ 307, 310(15), Oct. 15, 1976, 90 Stat. 2390, 2392; Pub. L. 95–202, title III, § 305(b)(1), Nov. 23, 1977, 91 Stat. 1443; Pub. L. 96–466, title III, § 328, Oct. 17, 1980, 94 Stat. 2197; Pub. L. 101–237, title IV, §§ 411(b), 412(b), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2085, 2092; renumbered § 3524 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 1724 of this title as this section.

Par. (2)(C). Pub. L. 102–83, § 5(c)(1), substituted ''3691'' for ''1791''.

1989—Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 412(b), substituted ''attendance, conduct,'' for ''conduct''.

Pars. (1), (2). Pub. L. 101–237, § 411(b), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

''(1) the cause of the unsatisfactory conduct or progress of the eligible person has been removed; and

''(2) the program which the eligible person now proposes to pursue (whether the same or revised) is suitable to the person's aptitudes, interests, and abilities.''

1980—Pub. L. 96–466 struck out provisions relating to the conditions upon which an eligible person's progress would be considered unsatisfactory.

1977—Pub. L. 95–202 inserted provisions authorizing the Administrator to determine the veteran's progress to be satisfactory even though the veteran will graduate within a length of time exceeding the approved length if the additional length of time is reasonable in accordance with regulations.

1976—Pub. L. 94–502, § 310(15), substituted ''such person is attending'' for ''he is attending'', ''the Administrator finds that'' for ''he finds that'', and ''the person's'' for ''his'' in two places.

Pub. L. 94–502, § 307, inserted provision specifying progress as unsatisfactory when the veteran will not be able to graduate within the approved length of the course.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective first day of first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 307 and 310(15) of Pub. L. 94–502 effective Dec. 1, 1976, and Oct. 15, 1976, respectively, see section 703(b), (c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

SUSPENSION OF IMPLEMENTATION OF 1976 AMENDMENT

For provisions directing the Administrator to suspend the implementation of the amendment to this section by section 307 of Pub. L. 94–502 in the case of any accredited educational institution which submits to the Administrator its course catalog or bulletin and a certification that the policies and regulations described in cls. (6) and (7) of section 1776(b) [now 3676(b)(6) and (7)] of this title are being enforced by such institution, unless the Administrator finds that the catalog or bulletin fails to state fully and clearly the policies and regulations, and for that suspension to continue until the Administrator submits the report required under section 305(b)(2) of Pub. L. 95–202, see section 305(b)(4)(A) of Pub. L. 95–202, set out as a note under section 3474 of this title.

[§§ 3525, 3526. Vacant]

CODIFICATION

Prior to renumbering of sections 1700 to 1766 of this chapter as sections 3500 to 3566 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, sections 1725 and 1726 of this chapter were repealed.

Section 1725, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1197, which related to period of operation for approval by Administrator, was repealed by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090.

Section 1726, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1197, which provided for control by agencies of United States, was repealed by Pub. L. 89–358, § 3(a)(3), Mar. 3, 1966, 80 Stat. 20.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE PERSONS

§ 3531. Educational assistance allowance

(a) The Secretary shall, in accordance with the provisions of chapter 36 of this title, pay to the parent or guardian of each eligible person who is pursuing a program of education under this chapter, and who applies therefor on behalf of such eligible person, an educational assistance allowance to meet, in part, the expenses of the eligible person's subsistence, tuition, fees, supplies, books, equipment, and other educational costs.

(b) The educational assistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1197, § 1731; Pub. L. 89–358, § 4(*l*), Mar. 3, 1966, 80 Stat. 24; Pub. L. 92–540, title III, § 312, Oct. 24, 1972, 86 Stat. 1083; Pub. L. 94–502, title III, §§ 309(c), 310(16), Oct. 15, 1976, 90 Stat. 2391, 2392; Pub. L. 96–466,

title III, § 329, Oct. 17, 1980, 94 Stat. 2197; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3531, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1731 of this title as this section.

1989—Subsec. (a). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1980—Subsec. (b). Pub. L. 96–466 substituted provisions that the educational assistance allowance of an eligible person pursuing a program of education at an educational institution be paid as provided in chapter 36 of this title for provisions that no educational assistance allowance be paid on behalf of an eligible person enrolled in a course in an educational institution which does not lead to a standard college degree for any period until the Administrator received from the eligible person a certification as to the person's actual attendance during such period and from the educational institution a certification, or an endorsement on the eligible person's certificate, that the person was enrolled in and pursuing a course of education during such period.

1976—Subsec. (a). Pub. L. 94–502, § 309(c), substituted ''chapter 36'' for ''section 1780''.

Subsec. (b). Pub. L. 94–502, § 310(16), substituted ''the person's'' for ''his'' and ''the person'' for ''he''.

1972—Subsec. (a). Pub. L. 92–540, § 312(1), inserted provision requiring the Administrator to pay in accordance with the provisions of section 1780 of this title.

Subsec. (b). Pub. L. 92–540, § 312(2), (3), redesignated subsec. (d) as (b). Former subsec. (b), which provided for the payment of the educational assistance allowance, pursuant to section 1732 of this title, to the eligible person only for a period of his enrollment as approved by the Administrator subject to certain limitations, was struck out.

Subsec. (c). Pub. L. 92–540, § 312(2), struck out subsec. (c) which authorized the Administrator, pursuant to regulations, to determine enrollment in, pursuit of, and attendance at, any program of education or course by an eligible person.

Subsec. (d). Pub. L. 92–540, § 312(3), redesignated subsec. (d) as (b).

Subsec. (e). Pub. L. 92–540, § 312(2), struck out subsec. (e) which related to the prompt payment by the Administrator of the allowance to the eligible person.

1966—Subsec. (c). Pub. L. 89–358 added subsec. (c) and struck out former subsec. (c) which conditioned payment of allowance to eligible person taking college degree course on receipt from such person of certification of enrollment and pursuit of such course and from educational institution certification or indorsement on student's certification of enrollment and pursuit of such course, prescribed such conditions for eligible person taking a course not leading to college degree as are now incorporated in subsec. (d) of this section, and required payments to be made within twenty days after receipt of requisite certifications, now incorporated in subsec. (e) of this section.

Subsec. (d). Pub. L. 89–358 redesignated provisions of former subsec. (c)(1)(B), (2) as subsec. (d).

Subsec. (e). Pub. L. 89–358 added subsec. (e). Concluding sentence of former subsec. (c), struck out by Pub. L. 89–358, provided for payment of such allowances within twenty days after receipt by the Administrator of requisite certifications.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3532. Computation of educational assistance allowance

(a)(1) The educational assistance allowance on behalf of an eligible person who is pursuing a program of education consisting of institutional courses shall be paid at the monthly rate of $788 for full-time, $592 for three-quarter-time, or $394 for half-time pursuit.

(2) The educational assistance allowance on behalf of an eligible person pursuing a program of education on less than a half-time basis shall be paid at the rate of the lesser of—

(A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay; or

(B) $788 per month for a full-time course.

(b) The educational assistance allowance to be paid on behalf of an eligible person who is pursuing a full-time program of education which consists of institutional courses and alternate phases of training in a business or industrial establishment with the training in the business or industrial establishment being strictly supplemental to the institutional portion, shall be computed at the rate of $788 per month.

(c)(1) An eligible person who is enrolled in an educational institution for a ''farm cooperative'' program consisting of institutional agricultural courses prescheduled to fall within forty-four weeks of any period of twelve consecutive months and who pursues such program on—

(A) a full-time basis (a minimum of ten clock hours per week or four hundred and forty clock hours in such year prescheduled to provide not less than eighty clock hours in any three-month period),

(B) a three-quarter-time basis (a minimum of seven clock hours per week), or

(C) a half-time basis (a minimum of five clock hours per week),

shall be eligible to receive an educational assistance allowance at the appropriate rate provided in paragraph (2) of this subsection, if such eligible person is concurrently engaged in agricultural employment which is relevant to such institutional agricultural courses as determined under standards prescribed by the Secretary. In computing the foregoing clock hour requirements there shall be included the time involved in field trips and individual and group instruction sponsored and conducted by the educational institution through a duly authorized instructor of such institution in which the person is enrolled.

(2) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a farm cooperative program under this chapter shall be $636 for full-time, $477 for three-quarter-time, or $319 for half-time pursuit.

(d) If a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person under this section shall be paid at the rate of $0.50 for each dollar.

(e) In the case of an eligible person who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony, the

educational assistance allowance shall be paid in the same manner prescribed in section 3482(g) of this title for incarcerated veterans, except that the references therein to the monthly educational assistance allowance prescribed for a veteran with no dependents shall be deemed to refer to the applicable allowance payable to an eligible person under corresponding provisions of this chapter or chapter 36 of this title, as determined by the Secretary.

(f)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3501(a)(5) 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 paid to such individual for such test by the full-time monthly institutional rate of the educational assistance allowance which, except for paragraph (1), such individual would otherwise be paid under this chapter.

(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 3501(a)(5) 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 this chapter.

(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.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1198, § 1732; Pub. L. 89–222, § 1, Sept. 30, 1965, 79 Stat. 896; Pub. L. 91–219, title I, § 104(a), (b), title II, § 210, Mar. 25, 1970, 84 Stat. 77, 78, 83; Pub. L. 92–540, title I, § 103(1)–(3), Oct. 24, 1972, 86 Stat. 1075, 1076; Pub. L. 93–508, title I, § 103(1)–(3), title II, § 208, Dec. 3, 1974, 88 Stat. 1580, 1584; Pub. L. 93–602, title II, § 204(a), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title III, §§ 301(1), 308, Oct. 15, 1976, 90 Stat. 2389, 2390; Pub. L. 95–202, title I, § 103(1), Nov. 23, 1977, 91 Stat. 1434; Pub. L. 96–466, title II, §§ 202(1), 212(1), title III, § 330, title VI, § 602(b), Oct. 17, 1980, 94 Stat. 2188, 2190, 2198, 2209; Pub. L. 98–543, title II, § 203(1), Oct. 24, 1984, 98 Stat. 2742; Pub. L. 101–237, title IV, §§ 403(a)(1)–(7), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2078, 2079, 2092; Pub. L. 102–16, § 10(a)(6), Mar. 22, 1991, 105 Stat. 56; renumbered § 3532 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 316(b), Oct. 29, 1992, 106 Stat. 4334; Pub. L. 103–446, title V, § 507(b), Nov. 2, 1994, 108 Stat. 4664; Pub. L. 104–275, title I, § 105(c), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 105–178, title VIII, § 8210(a), as added Pub. L. 105–206, title IX, § 9014(b), July 22, 1998, 112 Stat. 866; Pub. L. 106–419, title I, §§ 111(a), 122(b)(4), Nov. 1, 2000, 114 Stat. 1830, 1834; Pub. L. 107–103, title I, § 102(a), Dec. 27, 2001, 115 Stat. 978; Pub. L. 108–183, title III, § 302(a), Dec. 16, 2003, 117 Stat. 2658; Pub. L. 108–454, title I, § 106(b)(3), Dec. 10, 2004, 118 Stat. 3603.)

AMENDMENTS

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

2003—Subsec. (a)(1). Pub. L. 108–183, § 302(a)(1)(A), substituted "at the monthly rate of $788 for full-time, $592 for three-quarter-time, or $394 for half-time pursuit." for "at the monthly rate of $670 for full-time, $503 for three-quarter-time, or $335 for half-time pursuit."

Subsec. (a)(2). Pub. L. 108–183, § 302(a)(1)(B), substituted "at the rate of the lesser of—" and subpars. (A) and (B) for "at the rate of (A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) $670 per month for a full-time course, whichever is the lesser."

Subsec. (b). Pub. L. 108–183, § 302(a)(2), substituted "$788" for "$670".

Subsec. (c)(2). Pub. L. 108–183, § 302(a)(3), substituted "shall be $636 for full-time, $477 for three-quarter-time, or $319 for half-time pursuit." for "shall be $541 for full-time, $406 for three-quarter-time, and $271 for half-time pursuit."

2001—Subsec. (a)(1). Pub. L. 107–103, § 102(a)(1), substituted "$670" for "$588", "$503" for "$441", and "$335" for "$294".

Subsec. (a)(2). Pub. L. 107–103, § 102(a)(2), substituted "$670" for "$588".

Subsec. (b). Pub. L. 107–103, § 102(a)(3), substituted "$670" for "$588".

Subsec. (c)(2). Pub. L. 107–103, § 102(a)(4), substituted "$541" for "$475", "$406" for "$356", and "$271" for "$238".

2000—Subsec. (a)(1). Pub. L. 106–419, § 111(a)(1), substituted "$588" for "$485", "$441" for "$365", and "$294" for "$242".

Subsec. (a)(2). Pub. L. 106–419, § 111(a)(2), substituted "$588" for "$485".

Subsec. (b). Pub. L. 106–419, § 111(a)(3), substituted "$588" for "$485".

Subsec. (c)(2). Pub. L. 106–419, § 111(a)(4), substituted "$475" for "$392", "$356" for "$294", and "$238" for "$196".

Subsec. (f). Pub. L. 106–419, § 122(b)(4), added subsec. (f).

1998—Subsec. (a)(1). Pub. L. 105–178, § 8210(a)(1), as added by Pub. L. 105–206, § 9014(b), substituted "$485" for "$404", "$365" for "$304", and "$242" for "$202".

Subsecs. (a)(2), (b). Pub. L. 105–178, § 8210(a)(2), (3), as added by Pub. L. 105–206, § 9014(b), substituted "$485" for "$404".

Subsec. (c)(2). Pub. L. 105–178, § 8210(a)(4), as added by Pub. L. 105–206, § 9014(b), substituted "$392" for "$327", "$294" for "$245", and "$196" for "$163".

1996—Subsec. (b). Pub. L. 104–275 substituted "$404" for "$327".

1994—Subsec. (d). Pub. L. 103–446 substituted "the rate of" for "a rate in Philippine pesos equivalent to".

1992—Subsec. (c)(3), (4). Pub. L. 102–568 struck out pars. (3) and (4) which related to the monthly educational assistance allowance to be paid for persons pursuing an independent study program and for persons pursuing a course in part by open circuit television.

1991—Pub. L. 102–83, § 5(a), renumbered section 1732 of this title as this section.

Subsec. (c)(3). Pub. L. 102–83, § 5(c)(1), substituted "3688" for "1788".

Pub. L. 102–16 substituted "Secretary" for "Secretary of Veterans Affairs".

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''3482(g)'' for ''1682(g)''.

Pub. L. 102–16 substituted ''Secretary'' for ''Secretary of Veterans Affairs''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 403(a)(1), substituted ''paid at the monthly rate of $404 for full-time, $304 for three-quarter-time, or $202 for half-time pursuit.'' for ''computed at the rate prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents.''

Subsec. (a)(2). Pub. L. 101–237, § 403(a)(2), substituted ''paid at the rate of (A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay, or (B) $404 per month for a full-time course, whichever is the lesser.'' for ''computed at the rate prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran.''

Subsec. (b). Pub. L. 101–237, § 403(a)(3), substituted ''$327'' for ''$304''.

Subsec. (c)(1). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

Subsec. (c)(2). Pub. L. 101–237, § 403(a)(4), substituted ''$327 for full-time, $245 for three-quarter-time, and $163 for half-time pursuit.'' for ''computed at the rate prescribed in section 1682(c)(2) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of a farm cooperative program by an eligible veteran with no dependents.''

Subsec. (c)(3). Pub. L. 101–237, § 403(a)(5), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing an independent study program which leads to a standard college degree shall be computed at the rate prescribed in section 1682(e) of this title.''

Subsec. (c)(4). Pub. L. 101–237, § 403(a)(6), substituted ''paragraph (3) of this subsection'' for ''section 1682(e) of this title''.

Subsec. (e). Pub. L. 101–237, § 403(a)(7), inserted before period at end '', except that the references therein to the monthly educational assistance allowance prescribed for a veteran with no dependents shall be deemed to refer to the applicable allowance payable to an eligible person under corresponding provisions of this chapter or chapter 36 of this title, as determined by the Secretary of Veterans Affairs''.

1984—Subsec. (b). Pub. L. 98–304 substituted ''$304'' for ''$276''.

1980—Subsec. (b). Pub. L. 96–466, § 212(1), substituted ''$276'' for ''$264''.

Pub. L. 96–466, § 202(1), substituted ''$264'' for ''$251''.

Subsec. (c)(4). Pub. L. 96–466, § 330, added par. (4).

Subsec. (e). Pub. L. 96–466, § 602(b), added subsec. (e).

1977—Subsec. (b). Pub. L. 95–202 substituted ''$251'' for ''$235''.

1976—Subsec. (b). Pub. L. 94–502, § 301(1), substituted ''$235'' for ''$217''.

Subsec. (c)(3). Pub. L. 94–502, § 308, added par. (3).

1975—Subsec. (b). Pub. L. 93–602 substituted ''$217'' for ''$209''.

1974—Subsec. (a)(1). Pub. L. 93–508, § 103(1), substituted ''prescribed in section 1682(a)(1) of this title for full-time, three-quarter-time, or half-time pursuit, as appropriate, of an institutional program by an eligible veteran with no dependents'' for ''of (A) $220 per month if pursued on a full-time basis, (B) $165 per month if pursued on a three-quarter-time basis, and (C) $110 per month if pursued on a half-time basis''.

Subsec. (a)(2). Pub. L. 93–508, § 103(2), substituted ''prescribed in section 1682(b)(2) of this title for less-than-half-time pursuit of an institutional program by an eligible veteran'' for ''of (A) the established charges for tuition and fees which the institution requires other individuals enrolled in the same program to pay, or (B) $220 per month for a full-time course whichever is the lesser''.

Subsec. (b). Pub. L. 93–508, § 103(3), substituted ''$209'' for ''$177''.

Subsecs. (c), (d). Pub. L. 93–508, § 208, added subsec. (c) and redesignated former subsec. (c) as (d).

1972—Subsec. (a)(1). Pub. L. 92–540 § 103(1), substituted ''$220'' for ''$175'' in cl. (A), ''$165'' for ''$128'' in cl. (B), and ''$110'' for ''$81'' in cl. (C).

Subsec. (a)(2). Pub. L. 92–540, § 103(2), substituted ''$220'' for ''$175''.

Subsec. (b). Pub. L. 92–540, § 103(3), substituted ''$177'' for ''$141''.

1970—Subsec. (a). Pub. L. 91–219, § 104(a), designated existing provision as par. (1), substituted ''(A) $175'' for ''(1) $130'', ''(B) $128'' for ''(2) $95'', and ''(C) $81'' for ''(3) $60'', respectively in par. (1) as so designated, and added par. (2).

Subsec. (b). Pub. L. 91–219, § 104(b), substituted ''$141'' for ''$105''.

Subsec. (c). Pub. L. 91–219, § 210, substituted provision that if a program of education is pursued by an eligible person at an institution located in the Republic of the Philippines, the educational assistance allowance computed for such person should be paid at a specified rate in Philippine pesos, for provision forbidding educational assistance allowance to a person who is pursuing an institutional course on a less than prescribed basis.

1965—Subsec. (a). Pub. L. 89–222, § 1(a), substituted ''$130'', ''$95'', and ''$60'' for ''$110'', ''$80'', and ''$50'', respectively.

Subsec. (b). Pub. L. 89–222, § 1(b), substituted ''$105'' for ''$90''.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title III, § 302(e), Dec. 16, 2003, 117 Stat. 2659, provided that: ''The amendments made by this section [amending this section and sections 3534, 3542, and 3687 of this title] shall take effect on July 1, 2004, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title I, § 102(e), Dec. 27, 2001, 115 Stat. 978, provided that: ''The amendments made by this section [amending this section and sections 3534, 3542, and 3687 of this title] shall take effect as of January 1, 2002, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title I, § 111(e), Nov. 1, 2000, 114 Stat. 1830, provided that: ''The amendments made by subsections (a) through (d) [amending this section and sections 3534, 3542, and 3687 of this title] shall take effect on November 1, 2000, and shall apply with respect to educational assistance allowances paid under chapter 35 of title 38, United States Code, for months after October 2000.''

Amendment by section 122(b)(4) of Pub. L. 106–419 effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as a note under section 3032 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

Pub. L. 105–178, title VIII, § 8210(e), as added by Pub. L. 105–206, title IX, § 9014(b), July 22, 1998, 112 Stat. 866, provided that: ''The amendments made by this section [amending this section and sections 3534, 3542, and 3687 of this title] shall take effect on October 1, 1998, and shall apply with respect to educational assistance allowances paid for months after September 1998.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–446 applicable with respect to payments made after Dec. 31, 1994, see section 507(c) of Pub. L. 103–446, set out as a note under section 107 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 316(c) of Pub. L. 102–568 provided that: ''The amendments made by this section [amending this section and section 3688 of this title] apply to enrollments in courses beginning on or after July 1, 1993.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 403(c) of Pub. L. 101–237 provided that: ''The amendments made by this section [amending this section and sections 1733, 1734, 1742, and 1787 [now 3533, 3534, 3542, and 3687] of this title] shall take effect on January 1, 1990.''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Oct. 1, 1984, see section 205 of Pub. L. 98–543, set out as a note under section 3108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 202(1) and 212(1) of Pub. L. 96–466 effective Oct. 1, 1980, and Jan. 1, 1981, respectively, see section 802(b) of Pub. L. 96–466, set out as a note under section 3482 of this title.

Amendment by section 330 of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

Amendment by section 602(b) of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–602 effective Jan. 1, 1975, see section 206 of Pub. L. 93–602, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 103(1)–(3) of Pub. L. 93–508 effective Sept. 1, 1974, see section 501 of Pub. L. 93–508, set out as a note under section 3482 of this title.

Amendment by section 208 of Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92–540, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 104(a), (b) of Pub. L. 91–219 effective Feb. 1, 1970, see section 301 of Pub. L. 91–219, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 4 of Pub. L. 89–222 provided that: ''The amendments made by the first and second sections of this Act [amending this section and section 1742 [now 3542] of this title] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Sept. 30, 1965].''

§ 3533. Special assistance for the educationally disadvantaged

(a)(1) Any eligible person shall be entitled to the assistance provided an eligible veteran under section 3491(a) (if pursued in a State) of this title and be paid an educational assistance allowance therefor in the manner prescribed by section 3491(b) of this title, except that the corresponding rate provisions of this chapter shall apply, as determined by the Secretary, to such pursuit by an eligible person.

(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program (or the equivalent thereof in part-time educational assistance) consisting of such course or courses shall be provided without charge to entitlement.

(b) Any eligible person shall, without charge to any entitlement such person may have under section 3511 of this title, be entitled to the benefits provided an eligible veteran under section 3492 of this title.

(Added Pub. L. 92–540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084, § 1733; amended Pub. L. 94–502, title III, § 310(17), (18), Oct. 15, 1976, 90 Stat. 2392; Pub. L. 98–223, title II, § 203(b), Mar. 2, 1984, 98 Stat. 41; Pub. L. 100–689, title I, § 106(c), Nov. 18, 1988, 102 Stat. 4167; Pub. L. 101–237, title IV, § 403(a)(8), Dec. 18, 1989, 103 Stat. 2079; Pub. L. 102–16, § 10(a)(6), Mar. 22, 1991, 105 Stat. 56; renumbered § 3533 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 1733 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3491(a)'' for ''1691(a)'' and ''3491(b)'' for ''1691(b)''.

Pub. L. 102–16 substituted ''Secretary'' for ''Secretary of Veterans Affairs''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3511'' for ''1711'' and ''3492'' for ''1692''.

1989—Subsec. (a)(1). Pub. L. 101–237 substituted ''assistance provided an eligible veteran under section 1691(a) (if pursued in a State) of this title and be paid an educational assistance allowance therefor in the manner prescribed by section 1691(b) of this title, except that the corresponding rate provisions of this chapter shall apply, as determined by the Secretary of Veterans Affairs, to such pursuit by an eligible person.'' for ''benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.''

1988—Subsec. (a). Pub. L. 100–689 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any eligible spouse or surviving spouse shall, without charge to any entitlement such spouse may have under section 1711 of this title, be entitled to the benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.''

1984—Subsec. (a). Pub. L. 98–223 inserted ''(with no dependents)'' after ''an eligible veteran'' and struck out ''and be paid an educational assistance allowance under the provisions of section 1732(a) of this title''.

1976—Subsec. (a). Pub. L. 94–502, § 310(17), substituted ''spouse or surviving spouse'' for ''wife or widow'' and ''such spouse'' for ''she''.

Subsec. (b). Pub. L. 94–502, § 310(18), substituted ''such person'' for ''he''.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Jan. 1, 1990, see section 403(c) of Pub. L. 101–237, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–689 effective Aug. 15, 1989, see section 106(d) of Pub. L. 100–689, set out as a note under section 3034 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92–540, set out as a note under section 3512 of this title.

§ 3534. Apprenticeship or other on-job training; correspondence courses

(a) Any eligible person shall be entitled to pursue, in a State, a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 3687 of this title.

(b) Any eligible spouse or surviving spouse shall be entitled to pursue a program of education exclusively by correspondence and be paid an educational assistance allowance as provided in section 3686 (other than subsection (a)(2)) of this title and the period of such spouse's entitlement shall be charged with one month for each $788 which is paid to the spouse as an educational assistance allowance for such course.

(Added Pub. L. 92–540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084, § 1734; amended Pub. L. 94–502, title III, § 310(19), Oct. 15, 1976, 90 Stat. 2392; Pub. L. 101–237, title IV, § 403(a)(9), Dec. 18, 1989, 103 Stat. 2079; renumbered § 3534 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–178, title VIII, § 8210(b), as added Pub. L. 105–206, title IX, § 9014(b), July 22, 1998, 112 Stat. 866; Pub. L. 106–419, title I, § 111(b), Nov. 1, 2000, 114 Stat. 1830; Pub. L. 107–103, title I, § 102(b), Dec. 27, 2001, 115 Stat. 978; Pub. L. 108–183, title III, § 302(b), Dec. 16, 2003, 117 Stat. 2659.)

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–183 substituted ''$788'' for ''$670''.

2001—Subsec. (b). Pub. L. 107–103 substituted ''$670'' for ''$588''.

2000—Subsec. (b). Pub. L. 106–419 substituted ''$588'' for ''$485''.

1998—Subsec. (b). Pub. L. 105–178, § 8210(b), as added by Pub. L. 105–206, § 9014(b), substituted ''$485'' for ''$404''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1734 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3687'' for ''1787''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3686'' for ''1786''.

1989—Subsec. (b). Pub. L. 101–237 substituted ''1786 (other than subsection (a)(2)) of this title and the period of such spouse's entitlement shall be charged with one month for each $404 which is paid to the spouse as an educational assistance allowance for such course'' for ''1786 of this title''.

1976—Subsec. (b). Pub. L. 94–502 substituted ''spouse or surviving spouse'' for ''wife or widow''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 effective July 1, 2004, and applicable with respect to educational assistance allowances payable under this chapter and section 3687(b)(2) of this title for months beginning on or after that date, see section 302(e) of Pub. L. 108–183, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Jan. 1, 2002, and applicable with respect to educational assistance allowances payable under this chapter and section 3687(b)(2) of this title for months beginning on or after that date, see section 102(e) of Pub. L. 107–103, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective Nov. 1, 2000, and applicable with respect to educational assistance allowances paid under this chapter for months after October 2000, see section 111(e) of Pub. L. 106–419, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 105–178 effective Oct. 1, 1998, and applicable with respect to educational assistance allowances paid for months after Sept. 1998, see section 8210(e) of Pub. L. 105–178, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Jan. 1, 1990, see section 403(c) of Pub. L. 101–237, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3535. Approval of courses

An eligible person shall receive the benefits of this chapter while enrolled in a course of education offered by an educational institution only if such course (1) is approved in accordance with the provisions of subchapter I of chapter 36 of this title, or (2) is approved for the enrollment of the particular individual under the provisions of section 3536 of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199, § 1735; Pub. L. 88–126, § 2, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89–358, § 4(n), Mar. 3, 1966, 80 Stat. 25; Pub. L. 92–540, title IV, § 402(4), Oct. 24, 1972, 86 Stat. 1090; renumbered § 3535 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1735 of this title as this section and substituted ''3536'' for ''1736''.

1972—Pub. L. 92–540 substituted reference to section 1736 of this title for reference to section 1737 of this title.

1966—Pub. L. 89–358 redesignated former subsec. (a) as the entire section, struck out therefrom the introductory phrase ''Until the date for the expiration of all education and training under chapter 33 of this title,'', substituted ''An eligible person'' for ''and eligible person'', ''chapter'' for ''subchapter'', and ''subchapter I of chapter 36 of this title'' for ''this section or subchapter VII of this chapter'', and struck out former subsec. (b)

which provided for scope of approval and is now incorporated in section 1770(b) of this title.

1963—Subsec. (a). Pub. L. 88–126, § 2(1), (2), inserted ''Until the date for the expiration of all education and training under chapter 33 of this title, and'' before ''eligible person'', and ''or subchapter VII of this chapter'' after ''this section''.

Subsec. (b). Pub. L. 88–126, § 2(3), inserted ''or section 1778.''

Subsec. (c). Pub. L. 88–126, § 2(4), repealed subsec. (c) which related to the responsibility of the Administrator, after the expiration date of all education and training under chapter 33 of this title, for the approval of any additional courses.

§ 3536. Specialized vocational training courses

The Secretary may approve a specialized course of vocational training leading to a predetermined vocational objective for the enrollment of an eligible person under this subchapter if the Secretary finds that such course, either alone or when combined with other courses, constitutes a program of education which is suitable for that person and is required because of a mental or physical handicap.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199, § 1737; Pub. L. 88–126, § 4, Sept. 23, 1963, 77 Stat. 162; renumbered § 1736, Pub. L. 92–540, title IV, § 402(3), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94–502, title III, § 310(20), Oct. 15, 1976, 90 Stat. 2392; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3536, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1736 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1976—Pub. L. 94–502 substituted ''if the Administrator finds'' for ''if he finds''.

1963—Pub. L. 88–126 substituted ''The'' for ''Notwithstanding the provisions of subsections (b) and (c) of section 1735 of this title, the''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3537. Work-study allowance

(a) Subject to subsection (b) of this section, the Secretary shall utilize, in connection with the activities described in section 3485(a) of this title, the services of any eligible person who is pursuing, in a State, at least a three-quarter-time program of education (other than a course of special restorative training) and shall pay to such person an additional educational assistance allowance (hereinafter in this section referred to as ''work-study allowance'') in return for such eligible person's agreement to perform such services. The amount of the work-study allowance shall be determined in accordance with section 3485(a) of this title.

(b) The Secretary's utilization of, and payment of a work-study allowance for, the services of an eligible person pursuant to subsection (a) of this section shall be subject to the same requirements, terms, and conditions as are set out in section 3485 of this title with regard to individuals pursuing at least three-quarter-time programs of education referred to in subsection (b) of such section.

(Added Pub. L. 101–237, title IV, § 406(a)(1), Dec. 18, 1989, 103 Stat. 2082, § 1737; renumbered § 3537 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1737 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3485(a)'' for ''1685(a)'' in two places.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3485'' for ''1685''.

EFFECTIVE DATE

Section 406(b) of Pub. L. 101–237 provided that: ''The amendments made by this section [enacting this section] shall take effect on May 1, 1990.''

[§ 3538. Vacant]

CODIFICATION

Prior to renumbering of sections 1700 to 1766 of this chapter as sections 3500 to 3566 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1738 of this chapter, added Pub. L. 95–202, title II, § 201(b), Nov. 23, 1977, 91 Stat. 1437, which related to accelerated payment of educational assistance allowances, was repealed by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

SUBCHAPTER V—SPECIAL RESTORATIVE TRAINING

§ 3540. Purpose

The purpose of special restorative training is to overcome, or lessen, the effects of a manifest physical or mental disability which would handicap an eligible person (as defined in subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title) in the pursuit of a program of education.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1200, § 1740; Pub. L. 96–466, title III, § 331, Oct. 17, 1980, 94 Stat. 2198; renumbered § 3540 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–103, title I, § 109(a), Dec. 27, 2001, 115 Stat. 986.)

AMENDMENTS

2001—Pub. L. 107–103 substituted ''subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title'' for ''section 3501(a)(1)(A) of this title''.

1991—Pub. L. 102–83 renumbered section 1740 of this title as this section and substituted ''3501(a)(1)(A)'' for ''1701(a)(1)(A)''.

1980—Pub. L. 96–466 inserted ''(as defined in section 1701(a)(1)(A) of this title)'' after ''person''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

§ 3541. Entitlement to special restorative training

(a) The Secretary at the request of an eligible person is authorized—

(1) to determine whether such person is in need of special restorative training; and

(2) where need is found to exist, to prescribe a course which is suitable to accomplish the purposes of this chapter.

Such a course, at the discretion of the Secretary, may contain elements that would contribute toward an ultimate objective of a program of education.

(b) The total period of educational assistance under this subchapter and other subchapters of this chapter may not exceed the amount of entitlement as established in section 3511 of this title, except that the Secretary may extend such period in the case of any person if the Secretary finds that additional assistance is necessary to accomplish the purpose of special restorative training as stated in subsection (a) of this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1200, § 1741; Pub. L. 88–361, § 6, July 7, 1964, 78 Stat. 298; Pub. L. 94–502, title III, § 310(21), Oct. 15, 1976, 90 Stat. 2392; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3541 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–103, title I, § 109(b)(1), Dec. 27, 2001, 115 Stat. 986.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–103 struck out ''of the parent or guardian'' after ''request'' in introductory provisions.

1991—Pub. L. 102–83, § 5(a), renumbered section 1741 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3511'' for ''1711''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1976—Subsec. (b). Pub. L. 94–502 substituted ''if the Administrator finds'' for ''if he finds''.

1964—Subsec. (b). Pub. L. 88–361 authorized the Administrator to extend the period if he finds additional assistance necessary to accomplish the purpose of special restorative training.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88–433, § 2, Aug. 14, 1964, 78 Stat. 442, provided that: ''The amendments made by section 6 of the Act of July 7, 1964 (Public Law 88–361, 78 Stat. 297) [amending this section], shall take effect as of January 1, 1964.''

§ 3542. Special training allowance

(a) While the eligible person is enrolled in and pursuing a full-time course of special restorative training, the eligible person shall be entitled to receive a special training allowance computed at the basic rate of $788 per month. If the charges for tuition and fees applicable to any such course are more than $247 per calendar month, the basic monthly allowance may be increased by the amount that such charges exceed $247 a month, upon election by the eligible person to have such person's period of entitlement reduced by one day for each such increased amount of allowance that is equal to one-thirtieth of the full-time basic monthly rate of special training allowance.

(b) No payments of a special training allowance shall be made for the same period for which the payment of an educational assistance allowance is made or for any period during which the training is pursued on less than a full-time basis.

(c) Full-time training for the purpose of this section shall be determined by the Secretary with respect to the capacities of the individual trainee.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1200, § 1742; Pub. L. 89–222, § 2, Sept. 30, 1965, 79 Stat. 896; Pub. L. 91–219, title I, § 104(c), Mar. 26, 1970, 84 Stat. 78; Pub. L. 92–540, title I, § 103(4), Oct. 24, 1972, 86 Stat. 1076; Pub. L. 93–508, title I, § 103(4), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93–602, title II, § 204(b), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title III, § 301(2), Oct. 15, 1976, 90 Stat. 2389; Pub. L. 95–202, title I, § 103(2), Nov. 23, 1977, 91 Stat. 1435; Pub. L. 96–466, title II, §§ 202(2), 212(2), Oct. 17, 1980, 94 Stat. 2188, 2190; Pub. L. 98–543, title II, § 203(2), Oct. 24, 1984, 98 Stat. 2742; Pub. L. 101–237, title IV, §§ 403(a)(10), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2080, 2092; renumbered § 3542, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–178, title VIII, § 8210(c), as added Pub. L. 105–206, title IX, § 9014(b), July 22, 1998, 112 Stat. 866; Pub. L. 106–419, title I, § 111(c), Nov. 1, 2000, 114 Stat. 1830; Pub. L. 107–103, title I, §§ 102(c), 109(b)(2), Dec. 27, 2001, 115 Stat. 978, 986; Pub. L. 108–183, title III, § 302(c), Dec. 16, 2003, 117 Stat. 2659.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''$788'' for ''$670'' and substituted ''$247'' for ''$210'' in two places.

2001—Subsec. (a). Pub. L. 107–103, § 109(b)(2), substituted ''the eligible person shall be entitled to receive'' for ''the parent or guardian shall be entitled to receive on behalf of such person'' and ''upon election by the eligible person'' for ''upon election by the parent or guardian of the eligible person''.

Pub. L. 107–103, § 102(c), substituted ''$670'' for ''$588'' and substituted ''$210'' for ''$184'' in two places.

2000—Subsec. (a). Pub. L. 106–419 substituted ''$588'' for ''$485'', ''$184'' for ''$152'' in two places, and ''such increased amount of allowance that is equal to one-thirtieth of the full-time basic monthly rate of special training allowance'' for ''$16.16 that the special training allowance paid exceeds the basic monthly allowance''.

1998—Subsec. (a). Pub. L. 105–178, § 8210(c), as added by Pub. L. 105–206, § 9014(b), substituted ''$485'' for ''$404'' and ''$16.16'' for ''$13.46'' and substituted ''$152'' for ''$127'' in two places.

1991—Pub. L. 102–83 renumbered section 1742 of this title as this section.

1989—Subsec. (a). Pub. L. 101–237, § 403(a)(10), substituted ''$404'' for ''$376'', ''$127'' for ''$119'' in two places, and ''$13.46'' for ''$12.58''.

Subsec. (c). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

1984—Subsec. (a). Pub. L. 98–543 substituted ''$376'' for ''$342'', ''$119'' for ''$108'' in two places, and ''$12.58'' for ''$11.44''.

1980—Subsec. (a). Pub. L. 96–466, § 212(2), substituted ''$342'' for ''$327'', ''$108'' for ''$103'' in two places, and ''$11.44'' for ''$10.92''.

Pub. L. 96–466, § 202(2), substituted ''$327'' for ''$311'', ''$103'' for ''$98'' in two places, and ''$10.92'' for ''$10.40''.

1977—Subsec. (a). Pub. L. 95–202 substituted ''$311'' for ''$292'', ''$98'' for ''$92'' in two places, and ''$10.40'' for ''$9.76''.

1976—Subsec. (a). Pub. L. 94–502 substituted ''$292'' for ''$270'', ''$92'' for ''$85'' in two places, and ''$9.76'' for ''$9.02''.

1975—Subsec. (a). Pub. L. 93–602 substituted ''$270'', ''$85'', ''$85'', and ''$9.02'' for ''$260'', ''$82'', ''$82'', and ''$8.69'' respectively.

1974—Subsec. (a). Pub. L. 93–508 substituted ''behalf of such person'', ''$260'', ''$82'', ''$82'', and ''$8.69'' for ''his behalf a'', ''$220'', ''$69'', ''$69'', and ''$7.35'' respectively.

1972—Subsec. (a). Pub. L. 92–540 substituted ''$220'' for ''$175'', ''$69'' for ''$55'', and ''$7.35'' for ''$6.80'', respectively.

1970—Subsec. (a). Pub. L. 91–219 substituted ''$175'' for ''$130'', ''$55'' for ''$41'', and ''$6.80'' for ''$4.25'' respectively.

1965—Subsec. (a). Pub. L. 89–222 substituted ''$130'', ''$41'', ''$41'' and ''$4.25'' for ''$110'', ''$35'', ''$35'' and ''$3.60'', respectively.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 effective July 1, 2004, and applicable with respect to educational assistance allowances payable under this chapter and section 3687(b)(2) of this title for months beginning on or after that date, see section 302(e) of Pub. L. 108–183, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 102(c) of Pub. L. 107–103 effective Jan. 1, 2002, and applicable with respect to educational assistance allowances payable under this chapter and section 3687(b)(2) of this title for months beginning on or after that date, see section 102(e) of Pub. L. 107–103, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective Nov. 1, 2000, and applicable with respect to educational assistance allowances paid under this chapter for months after October 2000, see section 111(e) of Pub. L. 106–419, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 105–178 effective Oct. 1, 1998, and applicable with respect to educational assistance allowances paid for months after September 1998, see section 8210(e) of Pub. L. 105–178, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 403(a)(10) of Pub. L. 101–237 effective Jan. 1, 1990, see section 403(c) of Pub. L. 101–237, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Oct. 1, 1984, see section 205 of Pub. L. 98–543, set out as a note under section 3108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 202(2) and 212(c) of Pub. L. 96–466 effective Oct. 1, 1980, and Jan. 1, 1981, respectively, see section 802(b) of Pub. L. 96–466, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–602 effective Jan. 1, 1975, see section 206 of Pub. L. 93–602, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Sept. 1, 1974, see section 501 of Pub. L. 93–508, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92–540, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–219 effective Feb. 1, 1970, see section 301 of Pub. L. 91–219, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–222 effective first day of second calendar month following September 30, 1965, see section 4 of Pub. L. 89–222, set out as a note under section 3532 of this title.

§ 3543. Special administrative provisions

(a) In carrying out the Secretary's responsibilities under this chapter the Secretary may by agreement arrange with public or private educational institutions or others to provide training arrangements as may be suitable and necessary to accomplish the purposes of this subchapter. In any instance where the Secretary finds that a customary tuition charge is not applicable, the Secretary may agree on the fair and reasonable amounts which may be charged for the training provided to the eligible person.

(b) The Secretary shall make such rules and regulations as the Secretary may deem necessary in order to promote good conduct on the part of the persons who are following courses of special restorative training and otherwise to carry out the purposes of this chapter.

(c) In a case in which the Secretary authorizes training under section 3541(a) of this title on behalf of an eligible person, the parent or guardian shall be entitled—

(1) to receive on behalf of the eligible person the special training allowance provided for under section 3542(a) of this title;

(2) to elect an increase in the basic monthly allowance provided for under such section; and

(3) to agree with the Secretary on the fair and reasonable amounts which may be charged under subsection (a).

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1200, § 1743; Pub. L. 94–502, title III, § 310(22), Oct. 15, 1976, 90 Stat. 2392; Pub. L. 101–237, title IV, § 423(b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3543, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 107–103, title I, § 109(b)(3), (4), Dec. 27, 2001, 115 Stat. 986.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–103, § 109(b)(3), substituted ''for the training provided to the eligible person'' for ''the parent or guardian for the training provided to an eligible person'' in last sentence.

Subsec. (c). Pub. L. 107–103, § 109(b)(4), added subsec. (c).

1991—Pub. L. 102–83 renumbered section 1743 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary's'' for ''Administrator's'' in subsec. (a) and ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (a) and (b).

1976—Subsec. (a). Pub. L. 94–502 substituted ''the Administrator's'' for ''his'' and ''the Administrator may agree'' for ''he may agree''.

Subsec. (b). Pub. L. 94–502 substituted ''the Administrator may deem'' for ''he may deem''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 3561. Authority and duties of Secretary

(a) The Secretary may provide the educational and vocational counseling authorized under section 3520 of this title, and may provide additional counseling if the Secretary deems it to be necessary to accomplish the purposes of this chapter.

(b) Where any provision of this chapter authorizes or requires any function, power, or duty to be exercised by a State, or by any officer or agency thereof, such function, power, or duty shall, with respect to the Republic of the Philippines, be exercised by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1200, § 1761; Pub. L. 89–358, § 3(a)(1), Mar. 3, 1966, 80 Stat. 19; Pub. L. 94–502, title III, § 310(23), Oct. 15, 1976, 90 Stat. 2392; Pub. L. 96–466, title III, § 323(b), Oct. 17, 1980, 94 Stat. 2196; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3561 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 1761 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3520'' for ''1720''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1980—Subsec. (a). Pub. L. 96–466 substituted ''authorized'' for ''required'' and ''may provide additional counseling'' for ''may provide or require additional counseling''.

1976—Subsec. (a). Pub. L. 94–502 substituted ''if the Administrator deems'' for ''if he deems''.

1966—Subsec. (a). Pub. L. 89–358 redesignated subsec. (b) as (a) and struck out provisions of former subsec. (a) for audit and review of payments by the GAO as provided by Budget and Accounting Act of 1921 and Budget and Accounting Procedures Act of 1950.

Subsec. (b). Pub. L. 89–358 redesignated subsec. (d) as (b). Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 89–358 struck out subsec. (c) which provided for use of other Federal agencies. See now, section 1790 of this title.

Subsec. (d). Pub. L. 89–358 redesignated subsec. (d) as (b).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3562. Nonduplication of benefits

The commencement of a program of education or special restorative training under this chapter shall be a bar (1) to subsequent payments of compensation, dependency and indemnity compensation, or pension based on the death of a parent to an eligible person over the age of eighteen by reason of pursuing a course in an educational institution, or (2) to increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person whether eligibility is based upon the death or upon the total permanent disability of the parent.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1201, § 1762; Pub. L. 88–361, § 4, July 7, 1964, 78 Stat. 298; Pub. L. 89–358, § 3(a)(2), Mar. 3, 1966, 80 Stat. 20; renumbered § 3562, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1762 of this title as this section.

1966—Pub. L. 89–358 redesignated former subsec. (a) as the entire section and deleted former subsec. (b) which prohibited payment of educational assistance allowance or special training allowance on behalf of any eligible person for any period paid for under other provision of law where the payment would constitute a duplication of benefits and which is now incorporated in section 1781 of this title.

1964—Subsec. (a). Pub. L. 88–361 inserted ''whether eligibility is based upon the death or upon the total permanent disability of the parent''.

§ 3563. Notification of eligibility

The Secretary shall notify the parent or guardian of each eligible person defined in section 3501(a)(1)(A) of this title of the educational assistance available to such person under this chapter. Such notification shall be provided not later than the month in which such eligible person attains such person's thirteenth birthday or as soon thereafter as feasible.

(Added Pub. L. 91–219, title II, § 207(a), Mar. 26, 1970, 84 Stat. 82, § 1763; amended Pub. L. 94–502, title III, § 310(24), Oct. 15, 1976, 90 Stat. 2392; Pub. L. 97–295, § 4(46), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3563 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1763 of this title as this section and substituted ''3501(a)(1)(A)'' for ''1701(a)(1)(A)''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1982—Pub. L. 97–295 substituted ''of this title'' for ''of this chapter''.

1976—Pub. L. 94–502 substituted ''such person's'' for ''his''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3564. Annual adjustment of amounts of educational assistance

(a) With respect to any fiscal year, the Secretary shall provide a percentage increase in the rates payable under sections 3532, 3534(b), and 3542(a) of this title equal to the percentage by which—

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

(2) such Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).

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

(Added Pub. L. 106–419, title I, § 111(f)(1)(A), Nov. 1, 2000, 114 Stat. 1831; amended Pub. L. 108–183, title III, § 304(b), Dec. 16, 2003, 117 Stat. 2660.)

AMENDMENTS

2003—Pub. L. 108–183 designated existing provisions as subsec. (a), struck out ''(rounded to the nearest dollar)'' after ''percentage increase'', and added subsec. (b).

EFFECTIVE DATE

Pub. L. 106–419, title I, § 111(f)(3), Nov. 1, 2000, 114 Stat. 1831, as amended by Pub. L. 107–14, § 8(b)(1), June 5, 2001, 115 Stat. 36, provided that: ''Sections 3564 and 3687(d) of title 38, United States Code, as added by this subsection, shall take effect on October 1, 2001.''

SUBCHAPTER VII—PHILIPPINE COMMONWEALTH ARMY AND PHILIPPINE SCOUTS

§ 3565. Children of certain Philippine veterans

BASIC ELIGIBILITY

(a) The term ''eligible person'' as used in section 3501(a)(1) of this title includes the children of those Commonwealth Army veterans and ''New'' Philippine Scouts who meet the requirements of service-connected disability or death, based on service as defined in section 3566 of this title.

ADMINISTRATIVE PROVISIONS

(b) The provisions of this chapter and chapter 36 shall apply to the educational assistance for children of Commonwealth Army veterans and ''New'' Philippine Scouts, except that—

(1) educational assistance allowances authorized by section 3532 of this title and the special training allowance authorized by section 3542 of this title shall be paid at the rate of $0.50 for each dollar, and

(2) any reference to a State approving agency shall be deemed to refer to the Secretary.

DELIMITING DATES

(c) In the case of any individual who is an eligible person solely by virtue of subsection (a) of this section, and who is above the age of seventeen years and below the age of twenty-three years on September 30, 1966, the period referred to in section 3512 of this title shall not end until the expiration of the five-year period which begins on September 30, 1966.

(Added Pub. L. 89–613, § 1, Sept. 30, 1966, 80 Stat. 861, § 1765; amended Pub. L. 91–24, § 9(c), June 11, 1969, 83 Stat. 34; Pub. L. 97–295, § 4(47), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3565 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title V, § 507(b), Nov. 2, 1994, 108 Stat. 4664.)

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–446 substituted ''the rate of'' for ''a rate in Philippine pesos equivalent to''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1765 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3501(a)(1)'' for ''1701(a)(1)'' and ''3566'' for ''1766''.

Subsec. (b)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3532'' for ''1732'' and ''3542'' for ''1742''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3512'' for ''1712''.

1989—Subsec. (b)(2). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1982—Subsec. (a). Pub. L. 97–295 inserted ''of this title'' after ''section 1766''.

1969—Subsec. (c). Pub. L. 91–24 substituted ''September 30, 1966'' for ''the date of enactment of this section'' and ''September 30, 1966'' for ''the date of enactment of such section''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–446 applicable with respect to payments made after Dec. 31, 1994, see section 507(c) of Pub. L. 103–446, set out as a note under section 107 of this title.

SAVINGS PROVISION

Pub. L. 89–358, § 12(b), Mar. 3, 1966, 80 Stat. 28, provided that the provisions of subsec. (b) of this section, relating to payment of reporting allowance at rate of $1 per month, as in effect before Mar. 3, 1966, were to remain in effect through May 31, 1966.

§ 3566. Definitions

(a) The term ''Commonwealth Army veterans'' means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander-in-Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable.

(b) The term '' 'New' Philippine Scouts'' means Philippine Scouts who served under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(Added Pub. L. 89–613, § 1, Sept. 30, 1966, 80 Stat. 861, § 1766; renumbered § 3566, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in subsec. (b), means section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1766 of this title as this section.

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

SUBCHAPTER I—STATE APPROVING AGENCIES

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3670. Scope of approval.

Sec.
3671. Designation.
3672. Approval of courses.
3673. Cooperation.
3674. Reimbursement of expenses.
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3675. Approval of accredited courses.
3676. Approval of nonaccredited courses.
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SUBCHAPTER II—MISCELLANEOUS PROVISIONS

3680. Payment of educational assistance or subsistence allowances.
3680A. Disapproval of enrollment in certain courses.
3681. Limitations on educational assistance.
3682. Control by agencies of the United States.
3683. Conflicting interests.
3684. Reports by veterans, eligible persons, and institutions; reporting fee.
3684A. Procedures relating to computer matching programs.[1]
3685. Overpayments to eligible persons or veterans.
3686. Correspondence courses.
3687. Apprenticeship or other on-job training.
3688. Measurement of courses.
3689. Approval requirements for licensing and certification testing.
3690. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements.
3691. Change of program.
3692. Advisory committee.
3693. Compliance surveys.
3694. Use of other Federal agencies.
3695. Limitation on period of assistance under two or more programs.
3696. Limitation on certain advertising, sales, and enrollment practices.
3697. Funding of contract educational and vocational counseling.
3697A. Educational and vocational counseling.

[SUBCHAPTER III—REPEALED]

[3698, 3699. Repealed.]

AMENDMENTS

2003—Pub. L. 108–183, title III, § 306(g), Dec. 16, 2003, 117 Stat. 2661, struck out subchapter III heading ''EDUCATION LOANS''and items 3698 ''Eligibility for loans; amount and conditions of loans; interest rate on loans'' and 3699 ''Revolving fund; insurance''.

2000—Pub. L. 106–419, title I, § 122(c)(2), Nov. 1, 2000, 114 Stat. 1837, added item 3689.

1996—Pub. L. 104–275, title I, § 103(a)(1)(B), Oct. 9, 1996, 110 Stat. 3326, struck out item 3689 ''Period of operation for approval''.

1992—Pub. L. 102–568, title III, § 313(a)(8), Oct. 29, 1992, 106 Stat. 4333, added item 3680A.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1770 to 1799 as 3670 to 3699, respectively.

Pub. L. 102–16, § 2(b)(4), Mar. 22, 1991, 105 Stat. 49, added item 1797A.

1990—Pub. L. 101–366, title II, § 206(c), Aug. 15, 1990, 104 Stat. 442, added item 1784A.

1988—Pub. L. 100–689, title I, § 124(c)(3), Nov. 18, 1988, 102 Stat. 4175, substituted in heading for subchapter III ''EDUCATION LOANS'' for ''EDUCATION LOANS TO ELIGIBLE VETERANS AND ELIGIBLE PERSONS''.

Pub. L. 100–687, div. B, title XIII, § 1302(b), Nov. 18, 1988, 102 Stat. 4128, added item 1797.

Pub. L. 100–323, § 13(b)(1)(B), May 20, 1988, 102 Stat. 573, added item 1774A.

1982—Pub. L. 97–295, § 4(48), Oct. 12, 1982, 96 Stat. 1308, substituted ''Payment of educational assistance or subsistence allowances'' for ''Payment of educational or subsistence assistance allowances'' in item 1780.

1980—Pub. L. 96–466, title III, § 343(b)(2), Oct. 17, 1980, 94 Stat. 2199, substituted ''Reports by veterans, eligible persons, and institutions'' for ''Reports by institutions'' in item 1784.

1976—Pub. L. 94–502, title V, § 511(2), Oct. 15, 1976, 90 Stat. 2402, substituted ''Compliance surveys'' for ''Institutions listed by Attorney General'' in item 1793.

1974—Pub. L. 93–508, title II, § 212(b), title III, § 301(b), Dec. 3, 1974, 88 Stat. 1586, 1591, added subchapter III heading and items 1796, 1798, and 1799.

1972—Pub. L. 92–540, title IV, § 406, Oct. 24, 1972, 86 Stat. 1091, redesignated items 1788 to 1791 as 1792 to 1795, added items 1780 and 1788 to 1791, and substituted in item 1786 ''Correspondence courses'' for ''Examination of records'' and in item 1787 ''Apprenticeship or other on-job training'' for ''False or misleading statements''.

1970—Pub. L. 91–219, title II, § 213(2), Mar. 26, 1970, 84 Stat. 84, substituted ''Limitations on educational assistance'' for ''Nonduplication of benefits'' as item 1781.

1968—Pub. L. 90–631, § 1(d)(2), Oct. 23, 1968, 82 Stat. 1331, added item 1791.

1967—Pub. L. 90–77, title III, §§ 304(e), 308(b), Aug. 31, 1967, 81 Stat. 188, 189, added item 1777 and renumbered former items 1777 and 1778 as 1778 and 1779, respectively, and provided for the reporting fee in item 1784.

1966—Pub. L. 89–358, § 3(a)(4), Mar. 3, 1966, 80 Stat. 20, substituted ''CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS'' heading, including Subchapter I and II analyses, preceding section 1770 of this title for ''SUBCHAPTER VII—STATE APPROVING AGENCIES'' heading preceding section 1771 of this title, Subchapter VII heading being redesignated Subchapter I.

SUBCHAPTER I—STATE APPROVING AGENCIES

§ 3670. Scope of approval

(a) A course approved under and for the purposes of this chapter shall be deemed approved for the purposes of chapters 34 and 35 of this title.

(b) Any course approved under chapter 33 of this title, prior to February 1, 1965, under subchapter VII of chapter 35 of this title, prior to March 3, 1966, and not disapproved under section 3483, section 1656 (as in effect prior to February 1, 1965), or section 3679 of this title, shall be deemed approved for the purposes of this chapter.

(Added Pub. L. 89–358, § 3(a)(5), Mar. 3, 1966, 80 Stat. 20, § 1770; amended Pub. L. 92–540, title IV, § 403(1), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 97–295, § 4(49), Oct. 12, 1982, 96 Stat. 1308; renumbered § 3670 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Chapter 33 of this title, prior to February 1, 1965, referred to in subsec. (b), means Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1174 to 1192, which was classified to sections 1601, 1610 to 1613, 1620 to 1626, 1631 to 1634, 1641 to 1645, 1651 to 1656, and 1661 to 1669 of this title, and was repealed by section 4(a) of Pub. L. 89–358.

Subchapter VII of chapter 35 of this title, prior to March 3, 1966, referred to in subsec. (b), means Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 158 to 162, which was classified to sections 1771 to 1778 of this title, and was redesignated as subchapter I of this chapter by section 3(a)(4) of Pub. L. 89–358.

Section 1656 of this title, as in effect prior to February 1, 1965, referred to in subsec. (b), is Pub. L. 85–857, § 1656, Sept. 2, 1958, 72 Stat. 1189, which was repealed by

[1] So in original. Does not conform to section catchline.

section 4(a) of Pub. L. 89–358, and is covered by section 3679 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1770 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3483'' for ''1683'' and ''3679'' for ''1779''.

1982—Subsec. (b). Pub. L. 97–295 substituted ''March 3, 1966'' and ''section 1779'' for ''the date of enactment of this chapter'' and ''section 1778'', respectively.

1972—Subsec. (b). Pub. L. 92–540 substituted ''1683'' for ''1686''.

§ 3671. Designation

(a) Unless otherwise established by the law of the State concerned, the chief executive of each State is requested to create or designate a State department or agency as the ''State approving agency'' for such State for the purposes of this chapter and chapters 34 and 35 of this title.

(b)(1) If any State fails or declines to create or designate a State approving agency, or fails to enter into an agreement under section 3674(a), the provisions of this chapter which refer to the State approving agency shall, with respect to such State, be deemed to refer to the Secretary.

(2) In the case of courses subject to approval by the Secretary under section 3672 of this title, the provisions of this chapter which refer to a State approving agency shall be deemed to refer to the Secretary.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 158, § 1771; amended Pub. L. 89–358, § 3(a)(6), Mar. 3, 1966, 80 Stat. 20; Pub. L. 92–540, title IV, § 403(2), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94–502, title V, § 513(a)(1), Oct. 15, 1976, 90 Stat. 2402; Pub. L. 100–323, § 13(b)(4), May 20, 1988, 102 Stat. 573; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3671 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 1771 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3674(a)'' for ''1774(a)'' in par. (1) and ''3672'' for ''1772'' in par. (2).

1989—Subsec. (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (b)(1). Pub. L. 100–323 inserted ''or fails to enter into an agreement under section 1774(a),'' after ''State approving agency,''.

1976—Subsec. (a). Pub. L. 94–502 substituted ''such'' for ''his''.

1972—Subsec. (a). Pub. L. 92–540 inserted ''this chapter and'' after ''purposes of''.

1966—Subsec. (a). Pub. L. 89–358 substituted ''chapters 34 and 35 of this title'' for ''this chapter after the date for the expiration of all education and training provided in chapter 33 of this title. Such agency may be the agency designated or created in accordance with section 1641 of this title''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3672. Approval of courses

(a) An eligible person or veteran shall receive the benefits of this chapter and chapters 34 and 35 of this title while enrolled in a course of education offered by an educational institution only if (1) such course is approved as provided in this chapter and chapters 34 and 35 of this title by the State approving agency for the State where such educational institution is located, or by the Secretary, or (2) such course is approved (A) for the enrollment of the particular individual under the provisions of section 3536 of this title or (B) for special restorative training under subchapter V of chapter 35 of this title. Approval of courses by State approving agencies shall be in accordance with the provisions of this chapter and chapters 34 and 35 of this title and such other regulations and policies as the State approving agency may adopt. Each State approving agency shall furnish the Secretary with a current list of educational institutions specifying courses which it has approved, and, in addition to such list, it shall furnish such other information to the Secretary as it and the Secretary may determine to be necessary to carry out the purposes of this chapter and chapters 34 and 35 of this title. Each State approving agency shall notify the Secretary of the disapproval of any course previously approved and shall set forth the reasons for such disapproval.

(b) The Secretary shall be responsible for the approval of courses of education offered by any agency of the Federal Government authorized under other laws to supervise such education. The Secretary may approve any course in any other educational institution in accordance with the provisions of this chapter and chapters 34 and 35 of this title.

(c)(1) In the case of programs of apprenticeship where—

(A) the apprenticeship standards have been approved by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the ''National Apprenticeship Act'') (29 U.S.C. 50a), as a national apprenticeship program for operation in more than one State, and

(B) the training establishment is a carrier directly engaged in interstate commerce which provides such training in more than one State,

the Secretary shall act as a ''State approving agency'' as such term is used in section 3687(a)(1) of this title and shall be responsible for the approval of all such programs.

(2) The period of a program of apprenticeship may be determined based upon a specific period of time (commonly referred to as a ''time-based program''), based upon the demonstration of successful mastery of skills (commonly referred to as a ''competency-based program''), or based upon a combination thereof.

(3)(A) In the case of a competency-based program of apprenticeship, State approving agencies shall determine the period for which payment may be made for such a program under chapters 30 and 35 of this title and chapter 1606 of title 10. In determining the period of such a program, State approving agencies shall take into consideration the approximate term of the program recommended in registered apprenticeship program standards recognized by the Secretary of Labor.

(B) The sponsor of a competency-based program of apprenticeship shall provide notice to

the State approving agency involved of any such standards that may apply to the program and the proposed approximate period of training under the program.

(4) The sponsor of a competency-based program of apprenticeship shall notify the Secretary upon the successful completion of a program of apprenticeship by an individual under chapter 30 or 35 of this title, or chapter 1606 of title 10, as the case may be.

(d)(1) Pursuant to regulations prescribed by the Secretary in consultation with the Secretary of Labor, the Secretary and State approving agencies shall actively promote the development of apprenticeship and on the job training programs for the purposes of sections 3677 and 3687 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 4103A of this title to promote the development of such programs. The Secretary of Labor shall provide assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.

(2) In conjunction with outreach services provided by the Secretary under chapter 77 of this title for education and training benefits, each State approving agency shall conduct outreach programs and provide outreach services to eligible persons and veterans about education and training benefits available under applicable Federal and State law.

(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 158, § 1772; amended Pub. L. 89–358, § 3(a)(7), (8), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 91–219, title II, § 211, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92–540, title IV, § 403(3)–(5), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 96–466, title V, § 502, Oct. 17, 1980, 94 Stat. 2203; Pub. L. 97–295, § 4(50), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3672 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 605(a)(1), Nov. 2, 1994, 108 Stat. 4671; Pub. L. 107–103, title III, § 303, Dec. 27, 2001, 115 Stat. 992; Pub. L. 108–454, title I, §§ 104(a),(b), 110(b), Dec. 10, 2004, 118 Stat. 3601, 3602, 3605.)

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–454, §§ 104(a), 110(b)(1), designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A) of par. (1) and inserted ''apprenticeship'' before ''standards'', redesignated former par. (2) as subpar. (B) of par. (1), and added pars. (2) to (4).

Subsec. (d)(1). Pub. L. 108–454, §§ 104(b), 110(b)(2), substituted ''of apprenticeship and on the job training programs'' for ''of programs of training on the job (including programs of apprenticeship)'' and inserted at end ''The Secretary of Labor shall provide assistance and services to the Secretary, and to State approving agencies, to increase the use of apprenticeships.''

2001—Subsec. (d). Pub. L. 107–103 designated existing provisions as par. (1), inserted ''and State approving agencies'' before ''shall actively promote'', and added par. (2).

1994—Subsec. (e). Pub. L. 103–446 added subsec. (e).

1991—Pub. L. 102–83, § 5(a), renumbered section 1772 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3536'' for ''1736''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3687(a)(1)'' for ''1787(a)(1)'' in concluding provisions.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''3677 and 3687'' for ''1777 and 1787'' and ''4103A'' for ''2003A''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1982—Subsecs. (a), (b). Pub. L. 97–295, § 4(50)(A), inserted ''of this title'' after ''34 and 35'' wherever appearing.

Subsec. (c)(1). Pub. L. 97–295, § 4(50)(B), substituted ''section 2 of the Act of August 16, 1937 (popularly known as the 'National Apprenticeship Act') (29 U.S.C. 50a),'' for ''section 50a of title 29''.

1980—Subsec. (d). Pub. L. 96–466 added subsec. (d).

1972—Subsec. (a). Pub. L. 92–540, § 403(3), (4), inserted ''this chapter and'' before ''chapters 34 and 35'' and substituted ''1736'' for ''1737''.

Subsec. (b). Pub. L. 92–540, § 403(3), inserted ''this chapter and'' before ''chapters 34 and 35''.

Subsec. (c). Pub. L. 92–540, § 403(5), substituted ''1787(a)(1)'' for ''1683(a)(1)''.

1970—Subsec. (c). Pub. L. 91–219 added subsec. (c).

1966—Subsec. (a). Pub. L. 89–358, § 3(a)(7), (8), substituted ''under subchapter V of chapter 35 of this title'' for ''under subchapter V of this chapter'' in first sentence, and substituted ''chapters 34 and 35'' for ''this chapter'' twice in first sentence, and wherever appearing in second, third, and fourth sentences, and inserted ''or veteran'' after ''eligible person'', in first sentence.

Subsec. (b). Pub. L. 89–358, § 3(a)(7), substituted ''chapters 34 and 35'' for ''this chapter''.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 605(b) of Pub. L. 103–446 provided that: ''The amendments made by subsection (a) [amending this section and sections 3675, 3680, and 3686 of this title] shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after the date of the enactment of this Act [Nov. 2, 1994].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

§ 3673. Cooperation

(a) The Secretary and each State approving agency shall take cognizance of the fact that definite duties, functions, and responsibilities are conferred upon the Secretary and each State approving agency under the educational programs established under this chapter and chapters 34 and 35 of this title. To assure that such programs are effectively and efficiently administered, the cooperation of the Secretary and the State approving agencies is essential. It is necessary to establish an exchange of information pertaining to activities of educational institutions, and particular attention should be given to the enforcement of approval standards, enforcement of enrollment restrictions, and fraudulent and other criminal activities on the part of persons connected with educational institutions in which eligible persons or veterans are enrolled under this chapter and chapters 34 and 35 of this title.

(b) The Secretary will furnish the State approving agencies with copies of such Department of Veterans Affairs informational material as may aid them in carrying out chapters 34 and 35 of this title.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 158, § 1773; amended Pub. L. 89–358, § 3(a)(7), (11), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 92–540, title IV, § 403(6), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 97–295, § 4(51), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3673, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1773 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing in subsecs. (a) and (b) and ''Department of Veterans Affairs'' for ''Veterans' Administration'' in subsec. (b).

1982—Pub. L. 97–295 inserted ''of this title'' after ''34 and 35'' wherever appearing.

1972—Subsec. (a). Pub. L. 92–540 inserted ''this chapter and'' before ''chapters 34 and 35'' wherever appearing.

1966—Subsec. (a). Pub. L. 89–358, § 3(a)(7), (11), substituted ''chapters 34 and 35'' for ''this chapter'' twice and inserted ''or veterans'' after ''eligible persons''.

Subsec. (b). Pub. L. 89–358, § 3(a)(7), substituted ''chapters 34 and 35'' for ''this chapter''.

§ 3674. Reimbursement of expenses

(a)(1) Subject to paragraphs (2) through (4) of this subsection, the Secretary is authorized to enter into contracts or agreements with State and local agencies to pay such State and local agencies for reasonable and necessary expenses of salary and travel incurred by employees of such agencies and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section in (A) rendering necessary services in ascertaining the qualifications of educational institutions for furnishing courses of education to eligible persons or veterans under this chapter and chapters 30 through 35 of this title and chapter 106 of title 10, and in the supervision of such educational institutions, and (B) furnishing, at the request of the Secretary, any other services in connection with such chapters. Each such contract or agreement shall be conditioned upon compliance with the standards and provisions of such chapters. The Secretary may also reimburse such agencies for work performed by their subcontractors where such work has a direct relationship to the requirements of such chapters, and has had the prior approval of the Secretary.

(2)(A) The Secretary shall make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section, for expenses approved by the Secretary that are incurred in carrying out activities described in section 3674A(a)(3) of this title (except for administrative overhead expenses allocated to such activities), and for the allowance for administrative expenses described in subsection (b).

(B) The Secretary shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3) of this subsection.

(C) Subject to paragraph (4) of this subsection, the amount of any such payment made to an agency for any period shall be equal to the amount of the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3) of this subsection plus the allowance for administrative expenses described in subsection (b) and the amount of expenses approved by the Secretary that are incurred in carrying out activities described in section 3674A(a)(3) of this title for such period (except for administrative overhead expenses allocated to such activities).

(3) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the Secretary on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the report. The report shall be submitted in the form and manner required by the Secretary.

(4) The total amount made available under this section for any fiscal year may not exceed $13,000,000 or, for each of fiscal years 2001 and 2002, $14,000,000, for fiscal year 2003, $14,000,000, for fiscal year 2004, $18,000,000, for fiscal year 2005, $18,000,000, for fiscal year 2006, $19,000,000, and for fiscal year 2007, $19,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed the amount applicable to that fiscal year under the preceding sentence except for the provisions of this paragraph, the Secretary shall provide that each agency shall receive the same percentage of the amount applicable to that fiscal year under the preceding sentence as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.

(b) The allowance for administrative expenses incurred pursuant to subsection (a) of this section shall be paid in accordance with the following formula:

Total salary cost reimbursable under this section	Allowable for administrative expense
$5,000 or less	$693.
Over $5,000 but not exceeding $10,000.	$1,247.
Over $10,000 but not exceeding $35,000.	$1,247 for the first $10,000, plus $1,155 for each additional $5,000 or fraction thereof.
Over $35,000 but not exceeding $40,000.	$7,548.
Over $40,000 but not exceeding $75,000.	$7,548 for the first $40,000, plus $999 for each additional $5,000 or fraction thereof.
Over $75,000 but not exceeding $80,000.	$14,969.
Over $80,000	$14,969 for the first $80,000, plus $872 for each additional $5,000 or fraction thereof.

(c) Each State and local agency with which the Secretary contracts or enters into an agree-

ment under subsection (a) of this section shall report to the Secretary periodically, but not less often than annually, as determined by the Secretary, on the activities in the preceding twelve months (or the period which has elapsed since the last report under this subsection was submitted) carried out under such contract or agreement. Each such report shall describe, in such detail as the Secretary shall prescribe, services performed and determinations made in connection with ascertaining the qualifications of educational institutions in connection with this chapter and chapters 32, 34, and 35 of this title and in supervising such institutions.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 159, § 1774; amended Pub. L. 89–358, § 3(a)(7), (8), (11), Mar. 3, 1966, 80 Stat. 20, 21; Pub. L. 90–631, § 4, Oct. 23, 1968, 82 Stat. 1334; Pub. L. 92–540, title IV, § 403(7), 411, Oct. 24, 1972, 86 Stat. 1090, 1092; Pub. L. 93–508, title II, § 210(1), Dec. 3, 1974, 88 Stat. 1584; Pub. L. 94–502, title V, § 503, Oct. 15, 1976, 90 Stat. 2399; Pub. L. 95–202, title III, § 303, Nov. 23, 1977, 91 Stat. 1441; Pub. L. 96–466, title II, §§ 203(1), 213(1), Oct. 17, 1980, 94 Stat. 2188, 2190; Pub. L. 97–295, § 4(51), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 100–323, § 13(a)(1), (b)(5), May 20, 1988, 102 Stat. 571, 573; Pub. L. 101–237, title IV, §§ 414, 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2085, 2092; Pub. L. 102–16, § 10(a)(7), Mar. 22, 1991, 105 Stat. 56; renumbered § 3674 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 606(a)(1), (b), Nov. 2, 1994, 108 Stat. 4672; Pub. L. 106–419, title I, § 123, Nov. 1, 2000, 114 Stat. 1837; Pub. L. 107–14, § 8(a)(7), June 5, 2001, 115 Stat. 34; Pub. L. 107–330, title III, § 301, Dec. 6, 2002, 116 Stat. 2824.)

AMENDMENTS

2002—Subsec. (a)(4). Pub. L. 107–330 inserted ", for fiscal year 2003, $14,000,000, for fiscal year 2004, $18,000,000, for fiscal year 2005, $18,000,000, for fiscal year 2006, $19,000,000, and for fiscal year 2007, $19,000,000" before period at end of first sentence.

2001—Subsec. (a)(2)(A). Pub. L. 107–14, § 8(a)(7)(A)(i), struck out ", effective at the beginning of fiscal year 1988," after "The Secretary shall" and substituted "section 3674A(a)(3)" for "section 3674A(a)(4)".

Subsec. (a)(2)(B). Pub. L. 107–14, § 8(a)(7)(A)(ii), substituted "paragraph (3)" for "paragraph (3)(A)".

Subsec. (a)(2)(C). Pub. L. 107–14, § 8(a)(7)(A)(iii), substituted "section 3674A(a)(3)" for "section 3674A(a)(4)".

Subsec. (c). Pub. L. 107–14, § 8(a)(7)(B), struck out "on September 30, 1978, and" before "periodically," and "thereafter," before "as determined by the Secretary,".

2000—Subsec. (a)(4). Pub. L. 106–419 inserted "or, for each of fiscal years 2001 and 2002, $14,000,000" before period at end of first sentence and substituted "the amount applicable to that fiscal year under the preceding sentence" for "$13,000,000" in two places in second sentence.

1994—Subsec. (a)(3). Pub. L. 103–446, § 606(b), struck out "(A)" before "Each State" and struck out subpar. (B) which read as follows: "The Secretary shall transmit a report to the Congress on a quarterly basis which summarizes—

"(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) of this paragraph with respect to the quarter for which the report is made; and

"(ii) the amounts of the payments made by the Secretary for such quarter with respect to such certifications and with respect to administrative expenses."

Subsec. (a)(4). Pub. L. 103–446, § 606(a)(1), substituted "$13,000,000" for "$12,000,000" wherever appearing.

1991—Pub. L. 102–83, § 5(a), renumbered section 1774 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 102–16 substituted "chapter 106" for "chapters 106 and 107".

Subsec. (a)(2)(A), (C). Pub. L. 102–83, § 5(c)(1), substituted "3674A(a)(4)" for "1774A(a)(4)".

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

Subsec. (a)(2)(A). Pub. L. 101–237, § 414(1), substituted "section, for expenses approved by the Secretary that are incurred in carrying out activities described in section 1774A(a)(4) of this title (except for administrative overhead expenses allocated to such activities), and for" for "section and for".

Subsec. (a)(2)(C). Pub. L. 101–237, § 414(2), inserted before period at end "and the amount of expenses approved by the Secretary that are incurred in carrying out activities described in section 1774A(a)(4) of this title for such period (except for administrative overhead expenses allocated to such activities)".

Subsec. (c). Pub. L. 101–237, § 423(b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (a)(1). Pub. L. 100–323, § 13(b)(5), in subpar. (A) substituted "chapters 30 through 35 of this title and chapters 106 and 107 of title 10" for "chapters 34 and 35 of this title", in subpar. (B) substituted "such chapters" for "chapters 34 and 35 of this title", and in provisions following subpar. (B) substituted "provisions of such chapters" for "provisions of chapters 34 and 35 of this title" and "requirements of such chapters" for "requirements of chapter 32, 34, 35, or 36 of this title".

Pub. L. 100–323, § 13(a)(1)(A), (B), substituted "(1) Subject to paragraphs (2) through (4) of this subsection, the Administrator is" for "The Administrator is", and redesignated pars. (1) and (2) as subpars. (A) and (B), respectively.

Subsec. (a)(2) to (4). Pub. L. 100–323, § 13(a)(1)(C), added pars. (2) to (4).

1982—Subsec. (a). Pub. L. 97–295 inserted "of this title" after "34 and 35" wherever appearing.

1980—Subsec. (b). Pub. L. 96–466, § 213(1), increased allowance for administrative expenses by substituting "$693" for "$662", "$1,247" for "$1,191" in two places, "$1,155" for "$1,103", "$7,548" for "$7,205" in two places, "$999" for "$953", "$14,969" for "$14,288" in two places, and "$872" for "$833".

Pub. L. 96–466, § 203(1), increased allowance for administrative expenses by substituting "$662" for "$630", "$1,191" for "$1,134" in two places, "$1,103" for "$1,050", "$7,205" for "$6,862" in two places, "$953" for "$908", "$14,288" for "$13,608" in two places, and "$833" for "$793".

1977—Subsec. (b). Pub. L. 95–202, § 303(1), increased allowance for administrative expenses by substituting "$630" for "$600", "$1,134" for "$1,080" in two places, "$1,050" for "$1,000", "$6,862" for "$6,535" in two places, "$908" for "$865", "$13,608" for "$12,960" in two places, and "$793" for "$755".

Subsec. (c). Pub. L. 95–202, § 303(2), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–502, § 503(1), inserted provision authorizing Administrator to reimburse State and local agencies for work performed by their subcontractors, where the work performed has a direct relationship to the requirements of this chapter, chapters 32, 34, and 35, and has prior approval of the Administrator.

Subsec. (b). Pub. L. 94–502, § 503(2), increased allowance for administrative expenses from "$550" to "$600"; "$1000" to "$1080"; "$1000 for the first $10,000 plus $925 for each additional $5,000 or fraction thereof" to "$1,080 for the first $10,000 plus $1,000 for each additional $5,000 or fraction thereof"; "$6,050" to "$6,535"; "$6,050 for the first $40,000 plus $800 for each additional $5,000 or fraction thereof" to "$6,535 for the first $40,000 plus $865 for each additional $5,000 or fraction thereof"; "$12,000" to "$12,960"; "$12,000 for the first $80,000 plus $700 for each additional $5,000 or fraction thereof" to "$12,960 for the first $80,000 plus $755 for each additional $5,000 or fraction thereof".

1974—Subsec. (b). Pub. L. 93–508 increased allowance for administrative expenses from "$500" to "$550";

''$900'' to ''$1,000''; ''$900 for the first $10,000 plus $800 for each additional $5,000 or fraction thereof'' to ''$1,000 for the first $10,000 plus $925 for each additional $5,000 or fraction thereof''; ''$5,250'' to ''$6,050''; ''$5,250 for the first $40,000 plus $700 for each additional $5,000 or fraction thereof'' to ''$6,050 for the first $40,000 plus $800 for each additional $5,000 or fraction thereof''; ''$10,450'' to ''$12,000''; and ''$10,450 for the first $80,000 plus $600 for each additional $5,000 or fraction thereof'' to ''$12,000 for the first $80,000 plus $700 for each additional $5,000 or fraction thereof''.

1972—Subsec. (a). Pub. L. 92–540, § 403(7), inserted ''this chapter and'' before ''chapters 34 and 35'' in cl. (1).

Subsec. (b). Pub. L. 92–540, § 411, provided for recomputation of formula for reimbursement of expenses by doubling amounts paid as allowance for administrative expenses.

1968—Pub. L. 90–631 designated existing provisions as subsec. (a), inserted ''and an allowance for administrative expenses in accordance with the formula contained in subsection (b) of this section'' after ''employees of such agencies'', and added subsec. (b).

1966—Pub. L. 89–358, § 3(a)(7), (11), substituted ''chapters 34 and 35'' for ''this chapter'' in three places and inserted ''or veterans'' after ''eligible persons'' in cl. (1).

EFFECTIVE DATE OF 1994 AMENDMENT

Section 606(a)(2) of Pub. L. 103–446 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to services provided under such section after September 30, 1994.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 13(a)(1)(A), (B), (b)(5) of Pub. L. 100–223 effective May 20, 1988, and amendment by section 13(a)(1)(C) of Pub. L. 100–323 effective for all of fiscal year 1988 and subsequent fiscal years, see section 16(a), (b)(1)(D) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 203(1) and 213(1) of Pub. L. 96–466 effective Oct. 1, 1980, and Jan. 1, 1981, respectively, see section 802(b)(1), (2) of Pub. L. 96–466, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective first day of first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6(b) of Pub. L. 90–631 provided that: ''The amendments made by section 4 of this Act [amending this section] shall apply with respect to contracts and agreements entered into under section 1774 [now 3674] of title 38, United States Code, effective for periods beginning after June 30, 1968.''

REIMBURSEMENT FROM ACCOUNT USED FOR PAYMENT OF READJUSTMENT BENEFITS

Section 13(a)(2) of Pub. L. 100–323 provided that: ''If any payment is made to State or local approving agencies with respect to activities carried out under subchapter I of chapter 36 of title 38, United States Code, for fiscal year 1988 before the date of the enactment of this Act [May 20, 1988] and from an account other than the account used for payment of readjustment benefits, the account from which such payment was made shall be reimbursed from the account used for payment of readjustment benefits.''

§ 3674A. Evaluations of agency performance; qualifications and performance of agency personnel

(a) The Secretary shall—

(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the Secretary in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

(2) take into account the results of annual evaluations carried out under paragraph (1) when negotiating the terms and conditions of a contract or agreement under section 3674 of this title;

(3) cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for training new employees and for continuing the training of employees of such agencies, and sponsor, with the agencies, such training and continuation of training; and

(4) prescribe prototype qualification and performance standards, developed in conjunction with State approving agencies, for use by such agencies in the development of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement entered into under section 3674(a).

(b)(1) Each State approving agency carrying out a contract or agreement with the Secretary under section 3674(a) of this title shall—

(A) apply qualification and performance standards based on the standards developed under subsection (a)(4); and

(B) make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under section 3674(a) of this title.

(2) In developing and applying standards described in subsection (a)(4), the State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.

(3) The Secretary shall provide assistance in developing such standards to a State approving agency that requests it.

(Added Pub. L. 100–323, § 13(b)(1)(A), May 20, 1988, 102 Stat. 572, § 1774A; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3674A and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 606(c), Nov. 2, 1994, 108 Stat. 4672; Pub. L. 105–368, title X, § 1005(b)(8), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107–14, § 8(a)(8), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (a)(2). Pub. L. 107–14 substituted ''paragraph (1)'' for ''clause (1)''.

1998—Subsec. (b)(1). Pub. L. 105–368 struck out ''after the 18-month period beginning on the date of the enact-

ment of this section'' after ''section 3674(a) of this title'' in introductory provisions.

1994—Subsec. (a)(3) to (5). Pub. L. 103–446, § 606(c)(1), redesignated pars. (4) and (5) as (3) and (4), respectively, and struck out former par. (3) which read as follows: ''supervise functionally the provision of course-approval services by State approving agencies under this subchapter;''.

Subsec. (b). Pub. L. 103–446, § 606(c)(2)(A), substituted ''subsection (a)(4)'' for ''subsection (a)(5) of this section'' in pars. (1)(A) and (2).

Subsec. (b)(1). Pub. L. 103–446, § 606(c)(2)(B), inserted ''of this title'' after ''section 3674(a)'' in introductory provisions and subpar. (B).

1991—Pub. L. 102–83, § 5(a), renumbered section 1774A of this title as this section.

Subsec. (a)(2), (5). Pub. L. 102–83, § 5(c)(1), substituted ''3674'' for ''1774'' in par. (2) and ''3674(a)'' for ''1774(a)'' in par. (5).

Subsec. (b)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3674(a)'' for ''1774(a)'' in introductory provisions and in subpar. (B).

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

IMPLEMENTATION

Section 13(b)(2) of Pub. L. 100–323 directed Administrator, for purposes of implementing amendments by section 13(b)(1) of Pub. L. 100–323, and within 120 days after May 20, 1988, to publish prototype standards developed under subsec. (a)(5) of this section, directed each State approving agency, within 1 year after Administrator published the standards, to submit to Administrator a copy of the standards to be implemented by such agency under subsec. (b)(1)(A) of this section, and provided that Administrator could comment on consistency of the State's standards and prototype standards.

APPLICABILITY OF QUALIFICATION STANDARDS TO PERSONS EMPLOYED ON MAY 20, 1988

Section 13(b)(3) of Pub. L. 100–323 provided that: ''None of the qualification standards implemented pursuant to the amendments made by paragraph (1) [enacting this section] shall apply to any person employed by a State approving agency on the date of the enactment of this Act [May 20, 1988] as long as such person remains in the position in which the person is employed on such date.''

§ 3675. Approval of accredited courses

(a)(1) A State approving agency may approve the courses offered by an educational institution when—

(A) such courses have been accredited and approved by a nationally recognized accrediting agency or association;

(B) such courses are conducted under the Act of February 23, 1917 (20 U.S.C. 11 et seq.);[1]

(C) such courses are accepted by the State department of education for credit for a teacher's certificate or a teacher's degree; or

(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).

(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

(B) Except as provided in section 3672(e) of this title, a State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

(i) state with specificity the requirements of the institution with respect to graduation;

(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

(iii) include any attendance standards of the institution, if the institution has and enforces such standards.

(b) As a condition of approval under this section, the State approving agency must find the following:

(1) The educational institution keeps adequate records, as prescribed by the State approving agency, to show the progress and grades of the eligible person or veteran and to show that satisfactory standards relating to progress and conduct are enforced.

(2) The educational institution maintains a written record of the previous education and training of the eligible person or veteran that clearly indicates that appropriate credit has been given by the educational institution for previous education and training, with the training period shortened proportionately.

(3) The educational institution and its approved courses meet the criteria of paragraphs (1), (2), and (3) of section 3676(c) of this title.

(c)(1) A State approving agency may approve the entrepreneurship courses offered by a qualified provider of entrepreneurship courses.

(2) For purposes of this subsection, the term ''entrepreneurship course'' means a non-degree, non-credit course of business education that enables or assists a person to start or enhance a small business concern (as defined pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a))).

(3) Subsection (a) and paragraphs (1) and (2) of subsection (b) shall not apply to—

(A) an entrepreneurship course offered by a qualified provider of entrepreneurship courses; and

(B) a qualified provider of entrepreneurship courses by reason of such provider offering one or more entrepreneurship courses.

(4) Notwithstanding paragraph (3), a qualified provider of entrepreneurship courses shall maintain such records as the Secretary determines to be necessary to comply with reporting requirements that apply under section 3684(a)(1) of this

[1] See References in Text note below.

title with respect to eligible persons and veterans enrolled in an entrepreneurship course offered by the provider.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 159, § 1775; amended Pub. L. 89–358, § 3(a)(8), Mar. 3, 1966, 80 Stat. 21; Pub. L. 94–502, title V, §§ 504, 513(a)(2), Oct. 15, 1976, 90 Stat. 2399, 2402; Pub. L. 96–466, title VIII, § 801(d), Oct. 17, 1980, 94 Stat. 2216; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3675 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 312, Oct. 29, 1992, 106 Stat. 4330; Pub. L. 103–446, title VI, § 605(a)(2)(A), Nov. 2, 1994, 108 Stat. 4672; Pub. L. 104–275, title I, § 103(c), Oct. 9, 1996, 110 Stat. 3326; Pub. L. 108–183, title III, § 305(a), Dec. 16, 2003, 117 Stat. 2660; Pub. L. 108–454, title I, § 110(c)(1), Dec. 10, 2004, 118 Stat. 3605.)

REFERENCES IN TEXT

Act of February 23, 1917, referred to in subsec. (a)(1)(B), is act Feb. 23, 1917, ch. 114, 39 Stat. 929, as amended, known as the Smith-Hughes Vocational Education Act, which was classified to sections 11 to 15 and 16 to 28 of Title 20, Education, prior to repeal by Pub. L. 105–33, title VI, § 6201, Aug. 5, 1997, 111 Stat. 653. For complete classification of this Act to the Code, see Short Title note set out under section 11 of Title 20 and Tables.

AMENDMENTS

2004—Subsec. (c)(4). Pub. L. 108–454 added par. (4).

2003—Subsec. (c). Pub. L. 108–183 added subsec. (c).

1996—Subsec. (b). Pub. L. 104–275 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''As a condition to approval under this section, the State approving agency must find that adequate records are kept by the educational institution to show the progress of each eligible person or veteran and must include as a minimum (except for attendance) the requirements set forth in section 3676(c)(7) of this title. The State approving agency must also find that the educational institution maintains a written record of the previous education and training of the eligible person or veteran and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person or veteran and the Secretary so notified.''

1994—Subsec. (a)(2)(B). Pub. L. 103–446 substituted ''Except as provided in section 3672(e) of this title, a State'' for ''A State''.

1992—Subsec. (a). Pub. L. 102–568 designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A), redesignated former par. (2) as subpar. (B), substituted ''the Act of February 23, 1917 (20 U.S.C. 11 et seq.);'' for ''sections 11–28 of title 20; or'', redesignated former par. (3) as subpar. (C), added subpar. (D) and pars. (2) and (3), and struck out former concluding provisions which read as follows: ''For the purposes of this chapter the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which the Secretary determines to be reliable authority as to the quality of training offered by an educational institution and the State approving agencies may, upon concurrence, utilize the accreditation of such accrediting associations or agencies for approval of the courses specifically accredited and approved by such accrediting association or agency. In making application for approval, the institution shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the school. The catalog or bulletin must specifically state its progress requirements for graduation and must include as a minimum the information required by sections 3676(b)(6) and (7) of this title.''

1991—Pub. L. 102–83, § 5(a), renumbered section 1775 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3676(b)(6)'' for ''1776(b)(6)'' in last sentence.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3676(c)(7)'' for ''1776(c)(7)''.

1989—Subsec. (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1980—Subsec. (a). Pub. L. 96–466 substituted ''Secretary'' for ''Commissioner'' in two places.

1976—Subsec. (a). Pub. L. 94–502, § 513(a)(2), substituted ''the Commissioner determines'' for ''he determines''.

Pub. L. 94–502, § 504(1), inserted provision requiring that copies of the school bulletin be certified by an authorized representative of the school and that the bulletin specify the progress requirements for graduation and certain other information.

Subsec. (b). Pub. L. 94–502, § 504(2), inserted provision requiring that school records contain as a minimum, except for attendance, the requirements set forth in section 1776(c)(7) of this title.

1966—Subsec. (b). Pub. L. 89–358 inserted ''or veteran'' after ''eligible person'' in three places.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title I, § 110(c)(2), Dec. 10, 2004, 118 Stat. 3605, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of section 305(a) of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2660).''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 applicable to courses approved by State approving agencies after Dec. 16, 2003, see section 305(f) of Pub. L. 108–183, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–446 applicable with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after Nov. 2, 1994, see section 605(b) of Pub. L. 103–446, set out as a note under section 3672 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 504 and 513(a)(2) of Pub. L. 94–502 effective Dec. 1, 1976, and Oct. 15, 1976, respectively, see section 703(b), (c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3676. Approval of nonaccredited courses

(a) No course of education which has not been approved by a State approving agency pursuant to section 3675 of this title, which is offered by a public or private, profit or nonprofit, educational institution shall be approved for the purposes of this chapter unless the educational institution offering such course submits to the appropriate State approving agency a written application for approval of such course in accordance with the provisions of this chapter.

(b) Such application shall be accompanied by not less than two copies of the current catalog or bulletin which is certified as true and correct in content and policy by an authorized owner or official and includes the following:

(1) Identifying data, such as volume number and date of publication;

(2) Names of the institution and its governing body, officials and faculty;

(3) A calendar of the institution showing legal holidays, beginning and ending date of each quarter, term, or semester, and other important dates;

(4) Institution policy and regulations on enrollment with respect to enrollment dates and specific entrance requirements for each course;

(5) Institution policy and regulations relative to leave, absences, class cuts, makeup work, tardiness and interruptions for unsatisfactory attendance;

(6) Institution policy and regulations relative to standards of progress required of the student by the institution (this policy will define the grading system of the institution, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress and a description of the probationary period, if any, allowed by the institution, and conditions of reentrance for those students dismissed for unsatisfactory progress. A statement will be made regarding progress records kept by the institution and furnished the student);

(7) Institution policy and regulations relating to student conduct and conditions for dismissal for unsatisfactory conduct;

(8) Detailed schedules of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;

(9) Policy and regulations of the institution relative to the refund of the unused portion of tuition, fees, and other charges in the event the student does not enter the course or withdraws or is discontinued therefrom;

(10) A description of the available space, facilities, and equipment;

(11) A course outline for each course for which approval is requested, showing subjects or units in the course, type of work or skill to be learned, and approximate time and clock hours to be spent on each subject or unit; and

(12) Policy and regulations of the institution relative to granting credit for previous educational training.

(c) The appropriate State approving agency may approve the application of such institution when the institution and its non-accredited courses are found upon investigation to have met the following criteria:

(1) The courses, curriculum, and instruction are consistent in quality, content, and length with similar courses in public schools and other private schools in the State, with recognized accepted standards.

(2) There is in the institution adequate space, equipment, instructional material, and instructor personnel to provide training of good quality.

(3) Educational and experience qualifications of directors, administrators, and instructors are adequate.

(4) The institution maintains a written record of the previous education and training of the eligible person and clearly indicates that appropriate credit has been given by the institution for previous education and training, with the training period shortened proportionately and the eligible person and the Secretary so notified.

(5) A copy of the course outline, schedule of tuition, fees, and other charges, regulations pertaining to absence, grading policy, and rules of operation and conduct will be furnished the eligible person upon enrollment.

(6) Upon completion of training, the eligible person is given a certificate by the institution indicating the approved course and indicating that training was satisfactorily completed.

(7) Adequate records as prescribed by the State approving agency are kept to show attendance and progress or grades, and satisfactory standards relating to attendance, progress, and conduct are enforced.

(8) The institution complies with all local, city, county, municipal, State, and Federal regulations, such as fire codes, building and sanitation codes. The State approving agency may require such evidence of compliance as is deemed necessary.

(9) The institution is financially sound and capable of fulfilling its commitments for training.

(10) The institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation. The institution shall not be deemed to have met this requirement until the State approving agency (A) has ascertained from the Federal Trade Commission whether the Commission has issued an order to the institution to cease and desist from any act or practice, and (B) has, if such an order has been issued, given due weight to that fact.

(11) The institution does not exceed its enrollment limitations as established by the State approving agency.

(12) The institution's administrators, directors, owners, and instructors are of good reputation and character.

(13) The institution has and maintains a policy for the refund of the unused portion of tuition, fees, and other charges in the event the eligible person fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion and such policy must provide that the amount charged to the eligible person for tuition, fees, and other charges for a portion of the course shall not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to its total length.

(14) Such additional criteria as may be deemed necessary by the State approving agency.

(d) The Secretary may waive, in whole or in part, the requirements of subsection (c)(13) of this section in the case of an educational institution which—

(1) is a college, university, or similar institution offering postsecondary level academic instruction that leads to an associate or higher degree,

(2) is operated by an agency of a State or of a unit of local government,

(3) is located within such State or, in the case of an institution operated by an agency of

a unit of local government, within the boundaries of the area over which such unit has taxing jurisdiction, and

(4) is a candidate for accreditation by a regional accrediting association,

if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, that such requirements would work an undue administrative hardship because the total amount of tuition, fees, and other charges at such institution is nominal.

(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 159, § 1776; amended Pub. L. 89–358, § 3(a)(9), Mar. 3, 1966, 80 Stat. 21; Pub. L. 97–66, title VI, § 606, Oct. 17, 1981, 95 Stat. 1037; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3676 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 313(a)(1), Oct. 29, 1992, 106 Stat. 4331.)

AMENDMENTS

1992—Subsec. (e). Pub. L. 102–568 added subsec. (e).

1991—Pub. L. 102–83, § 5(a), renumbered section 1776 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3675'' for ''1775''.

1989—Subsecs. (c)(4), (d). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1981—Subsec. (d). Pub. L. 97–66 added subsec. (d).

1966—Subsec. (a). Pub. L. 89–358 struck out ''1653 or'' before ''1775''.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

§ 3677. Approval of training on the job

(a) Any State approving agency may approve a program of training on the job (other than a program of apprenticeship) only when it finds that the job which is the objective of the training is one in which progression and appointment to the next higher classification are based upon skills learned through organized and supervised training on the job and not on such factors as length of service and normal turnover, and that the provisions of subsections (b) and (c) of this section are met.

(b)(1) The training establishment offering training which is desired to be approved for the purposes of this chapter must submit to the appropriate State approving agency a written application for approval which, in addition to furnishing such information as is required by the State approving agency, contains a certification that—

(A) the wages to be paid the eligible veteran or person (i) upon entrance into training, are not less than wages paid nonveterans in the same training position and are at least 50 per centum of the wages paid for the job for which the veteran or person is to be trained, and (ii) such wages will be increased in regular periodic increments until, not later than the last full month of the training period, they will be at least 85 per centum of the wages paid for the job for which such eligible veteran or person is being trained; and

(B) there is reasonable certainty that the job for which the eligible veteran or person is to be trained will be available to the veteran or person at the end of the training period.

(2) The requirement under paragraph (1)(A)(ii) shall not apply with respect to a training establishment operated by the United States or by a State or local government.

(c) As a condition for approving a program of training on the job (other than a program of apprenticeship) the State approving agency must find upon investigation that the following criteria are met:

(1) The training content of the course is adequate to qualify the eligible veteran or person for appointment to the job for which the veteran or person is to be trained.

(2) The job customarily requires full-time training for a period of not less than six months and not more than two years.

(3) The length of the training period is not longer than that customarily required by the training establishments in the community to provide an eligible veteran or person with the required skills, arrange for the acquiring of job knowledge, technical information, and other facts which the eligible veteran or person will need to learn in order to become competent on the job for which the veteran or person is being trained.

(4) Provision is made for related instruction for the individual eligible veteran or person who may need it.

(5) There is in the training establishment adequate space, equipment, instructional material, and instructor personnel to provide satisfactory training on the job.

(6) Adequate records are kept to show the progress made by each eligible veteran or person toward such veteran's or person's job objective.

(7) No course of training will be considered bona fide if given to an eligible veteran or person who is already qualified by training and experience for the job.

(8) A signed copy of the training agreement for each eligible veteran or person, including the training program and wage scale as approved by the State approving agency, is provided to the veteran or person and to the Secretary and the State approving agency by the employer.

(9) That the course meets such other criteria as may be established by the State approving agency.

(d)(1) The Secretary may conduct a pilot program under which the Secretary operates a program of training on the job under this section for a period (notwithstanding subsection (c)(2)) of up to three years in duration to train employees of the Department to become qualified adjudicators of claims for compensation, dependency and indemnity compensation, and pension.

(2)(A) Not later than three years after the implementation of the pilot project, the Secretary shall submit to Congress an initial report on the pilot project. The report shall include an assess-

ment of the usefulness of the program in recruiting and retaining of personnel of the Department as well as an assessment of the value of the program as a training program.

(B) Not later than 18 months after the date on which the initial report under subparagraph (A) is submitted, the Secretary shall submit to Congress a final report on the pilot project. The final report shall include recommendations of the Secretary with respect to continuation of the pilot project and with respect to expansion of the types of claims for which the extended period of on the job training is available to train such employees.

(Added Pub. L. 90–77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186, § 1777; amended Pub. L. 91–219, title II, § 212, Mar. 26, 1970, 84 Stat. 83; Pub. L. 92–540, title III, § 314, Oct. 24, 1972, 86 Stat. 1084; Pub. L. 94–502, title V, § 513(a)(3), Oct. 15, 1976, 90 Stat. 2402; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3677, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title II, § 205(a), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 108–454, title I, § 108, Dec. 10, 2004, 118 Stat. 3604.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–454 added subsec. (d).

1998—Subsec. (b). Pub. L. 105–368 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1), redesignated former cls. (A) and (B) of par. (1) as cls. (i) and (ii), respectively, of subpar. (A), and added par. (2).

1991—Pub. L. 102–83 renumbered section 1777 of this title as this section.

1989—Subsec. (c)(8). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

1976—Subsec. (b). Pub. L. 94–502 substituted ''the veteran or person'' for ''he'' and ''him''.

Subsec. (c). Pub. L. 94–502 substituted ''the veteran or person'' for ''he'' in two places, and ''such veteran's or person's'' for ''his''.

1972—Subsecs. (b), (c). Pub. L. 92–540 inserted ''or person'' after ''veteran'' wherever appearing.

1970—Subsec. (a). Pub. L. 91–219 inserted ''and supervised''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 205(b), Nov. 11, 1998, 112 Stat. 3327, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to approval of programs of training on the job under section 3677 of title 38, United States Code, on or after October 1, 1998.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as an Effective Date of 1967 Amendment note under section 101 of this title.

§ 3678. Notice of approval of courses

The State approving agency, upon determining that an educational institution has complied with all the requirements of this chapter, will issue a letter to such institution setting forth the courses which have been approved for the purposes of this chapter, and will furnish an official copy of such letter and any subsequent amendments to the Secretary. The letter of approval shall be accompanied by a copy of the catalog or bulletin of the institution, as approved by the State approving agency, and shall contain the following information:

(1) date of letter and effective date of approval of courses;

(2) proper address and name of each educational institution;

(3) authority for approval and conditions of approval, referring specifically to the approved catalog or bulletin published by the educational institution;

(4) name of each course approved;

(5) where applicable, enrollment limitations such as maximum numbers authorized and student-teacher ratio;

(6) signature of responsible official of State approving agency; and

(7) such other fair and reasonable provisions as are considered necessary by the appropriate State approving agency.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 162, § 1777; renumbered § 1778, Pub. L. 90–77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3678, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1778 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

§ 3679. Disapproval of courses

(a) Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the appropriate State approving agency. An educational institution which has its courses disapproved by a State approving agency will be notified of such disapproval by a certified or registered letter of notification and a return receipt secured.

(b) Each State approving agency shall notify the Secretary of each course which it has disapproved under this section. The Secretary shall notify the State approving agency of the Secretary's disapproval of any educational institution under chapter 31 of this title.

(Added Pub. L. 88–126, § 1, Sept. 23, 1963, 77 Stat. 162, § 1778; renumbered § 1779, Pub. L. 90–77, title III, § 304(d), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 94–502, title V, § 513(a)(4), Oct. 15, 1976, 90 Stat. 2402; Pub. L. 101–237, title IV, § 423(b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3679, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1779 of this title as this section.

1989—Subsec. (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing and ''Secretary's'' for ''Administrator's''.

1976—Subsec. (b). Pub. L. 94–502 substituted ''the Administrator's disapproval'' for ''his disapproval''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

§ 3680. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section 3108, 3482, 3491, or 3532 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuit of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Secretary pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

(2) to any eligible veteran or person for auditing a course; or

(3) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless—

(A) the eligible veteran or person withdraws because he or she is ordered to active duty; or

(B) the Secretary finds there are mitigating circumstances, except that, in the first instance of withdrawal (without regard to withdrawals described in subclause (A) of this clause) by the eligible veteran or person from a course or courses with respect to which the veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof.

Notwithstanding the foregoing, the Secretary may, subject to such regulations as the Secretary shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation;

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days; or

(C) during periods between school terms where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual term basis if (i) the period between those terms does not exceed eight weeks, and (ii) both the terms preceding and following the period are not shorter in length than the period.

Correspondence Training Certifications

(b) No educational assistance allowance shall be paid to an eligible veteran or spouse or surviving spouse enrolled in and pursuing a program of education exclusively by correspondence until the Secretary shall have received—

(1) from the eligible veteran or spouse or surviving spouse a certificate as to the number of lessons actually completed by the veteran or spouse or surviving spouse and serviced by the educational institution; and

(2) from the training establishment a certification or an endorsement on the veteran's or spouse's or surviving spouse's certificate, as to the number of lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

Apprenticeship and Other On-Job Training

(c) No training assistance allowance shall be paid to an eligible veteran or eligible person enrolled in and pursuing a program of apprenticeship or other on-job training until the Secretary shall have received—

(1) from such veteran or person a certification as to such veteran's or person's actual attendance during such period; and

(2) from the training establishment a certification, or an endorsement on the veteran's or person's certificate, that such veteran or person was enrolled in and pursuing a program of apprenticeship or other on-job training during such period.

Advance Payment of Initial Educational Assistance or Subsistence Allowance

(d)(1) The educational assistance or subsistence allowance advance payment provided for in this subsection is based upon a finding by the Congress that eligible veterans and eligible persons may need additional funds at the beginning of a school term to meet the expenses of books, travel, deposits, and payment for living quarters, the initial installment of tuition, and the other special expenses which are concentrated at the beginning of a school term.

(2) Subject to the provisions of this subsection, and under regulations which the Secretary shall prescribe, an eligible veteran or eligible person shall be paid an educational assistance allowance or subsistence allowance, as appropriate, advance payment. Such advance payment shall be made in an amount equivalent to the allowance for the month or fraction thereof in which pursuit of the program will commence, plus the allowance for the succeeding month. In the case of a person on active duty, who is pursuing a program of education, the advance payment shall be in a lump sum based upon the

amount payable for the entire quarter, semester, or term, as applicable. In no event shall an advance payment be made under this subsection to a veteran or person intending to pursue a program of education on less than a half-time basis. An advance payment may not be made under this subsection to any veteran or person unless the veteran or person requests such payment and the Secretary finds that the educational institution at which such veteran or person is accepted or enrolled has agreed to, and can satisfactorily, carry out the provisions of paragraphs (4)(B) and (C) and (5) of this subsection. The application for advance payment, to be made on a form prescribed by the Secretary, shall—

(A) in the case of an initial enrollment of a veteran or person in an educational institution, contain information showing that the veteran or person (i) is eligible for educational benefits, (ii) has been accepted by the institution, and (iii) has notified the institution of such veteran's or person's intention to attend that institution; and

(B) in the case of a re-enrollment of a veteran or person, contain information showing that the veteran or person (i) is eligible to continue such veteran's or person's program of education or training and (ii) intends to re-enroll in the same institution,

and, in either case, shall also state the number of semester or clock-hours to be pursued by such veteran or person.

(3) For purposes of the Secretary's determination whether any veteran or person is eligible for an advance payment under this section, the information submitted by the institution, the veteran or person, shall establish such veteran's or person's eligibility unless there is evidence in such veteran's or person's file in the processing office establishing that the veteran or person is not eligible for such advance payment.

(4) The advance payment authorized by paragraph (2) of this subsection shall, in the case of an eligible veteran or eligible person, be (A) drawn in favor of the veteran or person; (B) mailed to the educational institution listed on the application form for temporary care and delivery to the veteran or person by such institution; and (C) delivered to the veteran or person upon such veteran's or person's registration at such institution, but in no event shall such delivery be made earlier than thirty days before the program of education is to commence.

(5) Upon delivery of the advance payment pursuant to paragraph (4) of this subsection, the institution shall submit to the Secretary a certification of such delivery. If such delivery is not effected within thirty days after commencement of the program of education in question, such institution shall return such payment to the Secretary forthwith.

Recovery of Erroneous Payments

(e)(1) Subject to paragraph (2), if an eligible veteran or eligible person fails to enroll in or pursue a course for which an educational assistance or subsistence allowance advance payment is made, the amount of such payment and any amount of subsequent payments which, in whole or in part, are due to erroneous information required to be furnished under subsection (d)(2) of this section, shall become an overpayment and shall constitute a liability of such veteran or person to the United States and may be recovered, unless waived pursuant to section 5302 of this title, from any benefit otherwise due such veteran or person under any law administered by the Department of Veterans Affairs or may be recovered in the same manner as any other debt due the United States.

(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.

Payments for Less Than Half-Time Training

(f) Payment of educational assistance allowance in the case of any eligible veteran or eligible person pursuing a program of education on less than a half-time basis shall be made in an amount computed 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 veteran or person has enrolled in and is pursuing a program at such institution. Such lump sum payment shall be computed at the rate provided in section 3482(b) or 3532(a)(2) of this title, as applicable.

Determination of Enrollment, Pursuit, and Attendance

(g)(1) The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define with respect to an eligible veteran and eligible person the following:

(A) Enrollment in a course or program of education or training.

(B) Pursuit of a course or program of education or training.

(C) Attendance at a course or program of education or training.

(2) The Secretary may withhold payment of benefits to an eligible veteran or eligible person until the Secretary receives such proof as the Secretary may require of enrollment in and satisfactory pursuit of a program of education by the eligible veteran or eligible person. The Secretary shall adjust the payment withheld, when necessary, on the basis of the proof the Secretary receives.

(3) In the case of an individual other than an individual described in paragraph (4), the Secretary may accept the individual's monthly certification of enrollment in and satisfactory pursuit of a program of education as sufficient proof of the certified matters.

(4) In the case of an individual who has received an accelerated payment of basic educational assistance under section 3014A of this title during an enrollment period for a program of education, the Secretary may accept the individual's certification of enrollment in and satisfactory pursuit of the program of education as sufficient proof of the certified matters if the certification is submitted after the enrollment period has ended.

(Added Pub. L. 92–540, title II, § 201, Oct. 24, 1972, 86 Stat. 1076, § 1780; amended Pub. L. 93–208, Dec. 28, 1973, 87 Stat. 907; Pub. L. 93–508, title II, § 209, Dec. 3, 1974, 88 Stat. 1584; Pub. L. 94–502, title V, §§ 505, 506, 513(a)(5)–(12), Oct. 15, 1976, 90 Stat. 2400, 2402, 2403; Pub. L. 96–466, title III, §§ 341, 342, title VI, §§ 601(c), (d), 602(c), Oct. 17, 1980, 94 Stat. 2198, 2208, 2209; Pub. L. 97–35, title XX, § 2003(c), Aug. 13, 1981, 95 Stat. 782; Pub. L. 97–295, § 4(52), Oct. 12, 1982, 96 Stat. 1308; Pub. L. 97–306, title II, § 205(c), Oct. 14, 1982, 96 Stat. 1434; Pub. L. 99–576, title III, §§ 315(a)(1), 316, title VII, § 701(59), Oct. 28, 1986, 100 Stat. 3274, 3296; Pub. L. 100–689, title I, § 121(a), Nov. 18, 1988, 102 Stat. 4173; Pub. L. 101–237, title IV, §§ 412(a), 415(a), 423(b)(1), (2), Dec. 18, 1989, 103 Stat. 2085, 2086, 2092; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3680 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–127, § 6(a), Oct. 10, 1991, 105 Stat. 622; Pub. L. 102–568, title III, § 314, Oct. 29, 1992, 106 Stat. 4333; Pub. L. 103–446, title VI, § 605(a)(2)(B), title XII, § 1201(i)(6), Nov. 2, 1994, 108 Stat. 4672, 4688; Pub. L. 106–419, title I, § 121(a), Nov. 1, 2000, 114 Stat. 1833; Pub. L. 107–103, title I, § 104(b), Dec. 27, 2001, 115 Stat. 981.)

AMENDMENTS

2001—Subsec. (g). Pub. L. 107–103 amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows: ''The Secretary may, pursuant to regulations which the Secretary shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education or training or course by an eligible veteran or eligible person for any period for which the veteran or person receives an educational assistance or subsistence allowance under this chapter for pursuing such program or course. Subject to such reports and proof as the Secretary may require to show an eligible veteran's or eligible person's enrollment in and satisfactory pursuit of such person's program, the Secretary may withhold payment of benefits to such eligible veteran or eligible person until the required proof is received and the amount of the payment is appropriately adjusted. The Secretary may accept such veteran's or person's monthly certification of enrollment in and satisfactory pursuit of such veteran's or person's program as sufficient proof of the certified matters.''

2000—Subsec. (a)(C). Pub. L. 106–419 amended subcl. (C) generally. Prior to amendment, subcl. (C) read as follows: ''during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed one full calendar month.''

1994—Subsec. (a)(2) to (4). Pub. L. 103–446, § 605(a)(2)(B), inserted ''or'' at end of par. (2), substituted period for ''; or'' at end of par. (3), and struck out par. (4) which read as follows: ''to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under section 3686 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Secretary by the educational institution.''

Subsec. (a)(C). Pub. L. 103–446, § 1201(i)(6), substituted ''one full'' for ''1 full''.

1992—Subsec. (e). Pub. L. 102–568 designated existing provisions as par. (1), substituted ''Subject to paragraph (2), if'' for ''If'', struck out comma after ''eligible person'', and added par. (2).

1991—Pub. L. 102–83, § 5(a), renumbered section 1780 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3108, 3482, 3491, or 3532'' for ''1508, 1682, 1691, or 1732'' in introductory provisions.

Subsec. (a)(3). Pub. L. 102–127 amended cl. (3) generally. Prior to amendment, cl. (3) read as follows: ''to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Secretary finds there are mitigating circumstances, except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof; or''.

Subsec. (a)(4). Pub. L. 102–83, § 5(c)(1), substituted ''3686'' for ''1786''.

Subsec. (e). Pub. L. 102–40 substituted ''5302'' for ''3102''.

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted ''3482(b) or 3532(a)(2)'' for ''1682(b) or 1732(a)(2)''.

1989—Subsec. (a). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 412(a), struck out ''enrolled in a course which leads to a standard college degree, or a course that meets the requirements of section 1788(a)(7) of this title,'' after ''or eligible person'' in cl. (1) of second sentence, redesignated cls. (3) to (5) as (2) to (4), respectively, and struck out former cl. (2) which read as follows: ''to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding courses that meet the requirements of section 1788(a)(7) of this title and programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;'', substituted ''set forth in clause (1)'' for ''set forth in clause (1) or (2)'' in third sentence, struck out '', and such periods shall not be counted as absences for the purposes of clause (2) of this subsection'' before semicolon at end of subcl. (A), and struck out '', but such periods shall be counted as absences for the purposes of clause (2) of this subsection'' before punctuation at end of subcls. (B) and (C).

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

Subsec. (d)(3). Pub. L. 101–237, § 423(b)(2), substituted ''Secretary's'' for ''Administrator's''.

Subsec. (d)(5). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

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

Subsec. (g). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 415(a), substituted ''the Secretary may withhold payment of benefits to such eligible veteran or eligible person until the required proof is received and the amount of the payment is appropriately adjusted. The Secretary may accept such veteran's or person's monthly certification of enrollment in and satisfactory pursuit of such veteran's or person's program as sufficient proof of the certified matters.'' for ''the Administrator is authorized to withhold the final payment of benefits to such person until the required proof is received and the amount of the final payment is appropriately adjusted.''

1988—Subsec. (a)(4). Pub. L. 100–689 inserted '', except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof'' after ''circumstances''.

1986—Subsec. (a)(1). Pub. L. 99–576, § 315(a)(1)(A), inserted ''or a course that meets the requirements of section 1788(a)(7) of this title'' after ''degree''.

Subsec. (a)(2). Pub. L. 99–576, § 315(a)(1)(B), inserted ''courses that meet the requirements of section 1788(a)(7) of this title and'' after ''excluding''.

Subsec. (d)(2). Pub. L. 99–576, § 701(59), substituted ''person'' for ''serviceman'' after ''In the case of a''.

Subsec. (f). Pub. L. 99–576, § 316, substituted ''not later than the last day of'' for ''during''.

1982—Subsec. (a). Pub. L. 97–295, § 4(52)(A), and Pub. L. 97–306, § 205(c)(1), made identical amendments by substituting ''section 1508'' for ''section 1504''.

Subsec. (a)(5). Pub. L. 97–295, § 4(52)(B), substituted ''than 6 months'' for ''the 6 months'' after ''portion is less''.

Subsec. (a)(6). Pub. L. 97–306, § 205(c)(2)–(4), struck out cl. (6) which provided that no amount would be paid to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course to the extent the tuition and fees of the veteran or person were paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or for which there were no tuition and fees.

Subsec. (a)(A) to (C). Pub. L. 97–295, § 4(52)(C), inserted ''of this subsection'' after ''clause (2)'' wherever appearing.

1981—Subsec. (a). Pub. L. 97–35 struck out applicability to flight training program.

1980—Subsec. (a). Pub. L. 96–466, §§ 341(a), 342, 602(c), in provisions preceding cl. (1) inserted ''in, and pursuit of, such program'' after ''enrollment'', in cl. (1) inserted reference to not pursuing a course in accordance with provisions of regulations prescribed by the Administrator pursuant to subsec. (g) of this section and reference to payment for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution, in cl. (2) inserted reference to periods when the institution is not in session because of teacher conferences or teacher training sessions, and added cl. (6).

Subsec. (d)(2). Pub. L. 96–466, § 601(c)(1), struck out ''(other than under subchapter VI of chapter 34)'' after ''who is pursuing a program of education'' and substituted ''paragraphs (4)(B) and (C) and (5)'' for ''paragraphs 5(B) and (C) and (6)''.

Subsec. (d)(3). Pub. L. 96–466, § 601(c)(2), (3), redesignated par. (4) as (3). Former par. (3), which related to the entitlement of a person eligible for education or training under the provisions of subchapter VI of chapter 34 of this title to a lump-sum educational assistance allowance advance payment, was struck out.

Subsec. (d)(4). Pub. L. 96–466, § 601(c)(3), (4), redesignated par. (5) as (4) and substituted ''paragraph (2)'' for ''paragraphs (2) and (3)''. Former par. (4) redesignated (3).

Subsec. (d)(5), (6). Pub. L. 96–466, § 601(c)(4), (5), redesignated par. (6) as (5) and substituted ''paragraph (4)'' for ''paragraph (5)''. Former par. (5) redesignated (4).

Subsec. (e). Pub. L. 96–466, § 601(d)(1), substituted ''under subsection (d)(2) of this section'' for ''under subsection (d)(2) and (3) of this section''.

Subsec. (f). Pub. L. 96–466, § 601(d)(2), struck out ''(except as provided by subsection (d)(3) of this section)'' after ''half-time basis''.

Subsec. (g). Pub. L. 96–466, § 341(b), inserted ''and define'' after ''determine''.

1976—Subsec. (a). Pub. L. 94–502, §§ 505, 506, 513(a)(5), authorized the Administrator to continue allowances to eligible veterans and persons during periods between consecutive school terms where the veteran or person transfers from one approved school to another approved school, provided the period not exceed 30 days, and during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the veteran or person on an individual semester, term, or quarter basis, provided that the period not exceed 1 full calendar month, substituted ''such veteran's or person's'' for ''his'', and added cls. (3) to (5).

Subsec. (b). Pub. L. 94–502, § 513(a)(5), substituted ''spouse or surviving spouse'' for ''wife or widow'' wherever appearing, and ''spouse's or surviving spouse's'' for ''wife's or widow's''.

Subsec. (c). Pub. L. 94–502, § 513(a)(6), substituted ''such veteran's or person's'' for ''his''.

Subsec. (d). Pub. L. 94–502, § 513(a)(6)–(8), substituted ''persons may need'' for ''persons need'' in cl. (1), ''such veteran's or person's'' for ''his'' in two places and inserted provision prohibiting advance payments unless the veteran request them and the Administrator finds that the educational institution has agreed to and can carry out the requirements of cls. (5) (B), (C) and (6) of this subsection in cl. (2), substituted ''such veteran's or person's'' for ''his'' in two places and ''the veteran or person'' for ''he'' in cl. (4), and ''such veteran's or person's'' for ''his'' in cl. (5).

Subsec. (e). Pub. L. 94–502, § 513(a)(9)–(11), struck out subsec. (e) which provided for prepayment of subsequent educational assistance or subsistence allowances, redesignated subsec. (f) as (e) and substituted ''such veteran or person'' for ''him''.

Subsec. (f). Pub. L. 94–502, § 513(a)(10), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsecs. (g), (h). Pub. L. 94–502, § 513(a)(10), (12), redesignated subsec. (h) as (g), substituted ''which the Administrator shall'' for ''which he shall'', ''the veteran or person'' for ''he'', and authorized the Administrator to withhold final payment of benefits to the veteran or person until proof of the veteran's or person's enrollment in and satisfactory pursuit of the educational program is received. Former subsec. (g) redesignated (f).

1974—Subsec. (a)(2). Pub. L. 93–508 substituted ''legal holidays (or customary vacation periods connected therewith)'' for ''legal holidays''.

1973—Subsec. (a). Pub. L. 93–208 inserted provisions that the Administrator may continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in cl. (1) or (2) of this subsection during periods when the schools are temporarily closed under an established policy based upon an Executive Order of the President or due to an emergency situation, and that such periods shall not be counted as absences for the purposes of cl. (2).

Effective Date of 2001 Amendment

Amendment by Pub. L. 107–103 effective Oct. 1, 2002, and applicable with respect to enrollments in courses or programs of education or training beginning on or after that date, see section 104(c) of Pub. L. 107–103, set out as an Effective Date note under section 3014A of this title.

Effective Date of 2000 Amendment

Pub. L. 106–419, title I, § 121(b), Nov. 1, 2000, 114 Stat. 1833, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to payments of educational assistance under title 38, United States Code, for months beginning on or after the date of the enactment of this Act [Nov. 1, 2000].''

Effective Date of 1994 Amendment

Amendment by section 605(a)(2)(B) of Pub. L. 103–446 applicable with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after Nov. 2, 1994, see section 605(b) of Pub. L. 103–446, set out as a note under section 3672 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 6(b) of Pub. L. 102–127 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as of August 1, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 121(b) of Pub. L. 100–689 provided that: ''The amendment made by subsection (a) [amending this section] shall apply so as to require that mitigating circumstances be considered to exist only with respect to withdrawals from a course or courses being pursued with assistance under title 38, United States Code, that occur on or after June 1, 1989.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, except as otherwise provided, see section 2006 of Pub. L. 97–35, set out as a note under section 3231 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 341 and 342 of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

Amendment by sections 601(c), (d) and 602(c) of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 505 of Pub. L. 94–502 effective Dec. 1, 1976, and amendment by sections 506 and 513(a)(5), (6), (11), (12) of Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b), (c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

Section 513(b) of Pub. L. 94–502 provided that: ''The amendments made by paragraphs (7), (8), (9), and (10) of subsection (a) [amending this section] shall take effect June 1, 1977, and shall apply with respect to educational assistance allowances and subsistence allowances paid under title 38, United States Code, for months after May 1977.''

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section 603 of Pub. L. 92–540 provided that:

''(a) The prepayment provisions of subsection (e) of section 1780 [now 3680] of title 38, United States Code (as added by section 201 of this Act), shall become effective on November 1, 1972.

''(b) The advance payment provisions of section 1780 [now 3680] of title 38, United States Code (as added by section 201 of this Act), shall become effective on August 1, 1973, or at such time prior thereto as the Administrator of Veterans' Affairs shall specify in a certification filed with the Committees on Veterans' Affairs of the Congress.''

STUDY OF TUITION ASSISTANCE ALLOWANCE PROGRAM ABUSES

Section 105 of Pub. L. 93–508 authorized the Administrator to study the potential administrative difficulties and abuses that would arise if some form of variable tuition assistance allowance program were enacted after consideration of past difficulties and abuses which arose after the Second World War and such difficulties and abuses as were being experienced by the Veterans' Administration in managing certain current programs, and to report to the Congress and the President his findings and recommendations for legislative and administrative action no later than one year after Dec. 3, 1974.

EX. ORD. NO. 12020. PAYMENT OF BENEFITS WHEN SCHOOLS ARE TEMPORARILY CLOSED TO CONSERVE ENERGY

Ex. Ord. No. 12020, Nov. 8, 1977, 42 F.R. 58509, provided:

By virtue of the authority vested in me by clause (A) of Section 1780(a) [now 3680(a)] of Title 38 of the United States Code, and as President of the United States of America, in order to establish a national policy in regard to payment of educational benefits to veterans and their dependents during periods in which schools are closed to conserve energy, it is hereby ordered as follows:

SECTION 1. Whenever an educational institution submits evidence which satisfies the Administrator of Veterans' Affairs that energy consumption will be abnormally high during the winter months or that available energy supplies will be inadequate to meet the needs of the school, and that, in the interest of energy conservation, the institution plans to close between semesters or terms for a period not to exceed 45 days, the Administrator may continue to pay monthly educational assistance benefits to veterans and eligible persons enrolled in such schools. Such authority may be exercised only once during any 12-month period with respect to any educational institution.

SEC. 2. The Administrator shall advise veterans and other eligible persons of the effect of accepting educational assistance benefits under the provisions of Section 1 of this Order on their period of entitlement.

JIMMY CARTER.

§ 3680A. Disapproval of enrollment in certain courses

(a) The Secretary shall not approve the enrollment of an eligible veteran in—

(1) any bartending course or personality development course;

(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

(4) any independent study program except an accredited independent study program (including open circuit television) leading (A) to a standard college degree, or (B) to a certificate that reflects educational attainment offered by an institution of higher learning.

(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio.

(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or

other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

(B) in a farm cooperative training course; or

(C) in a course described in subsection (g).

(e) The Secretary may not approve the enrollment of an eligible veteran in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if—

(1) the educational institution has been operating for less than two years;

(2) the course is offered at a branch of the educational institution and the branch has been operating for less than two years; or

(3) following either a change in ownership or a complete move outside its original general locality, the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality (as determined in accordance with regulations the Secretary shall prescribe) unless the educational institution following such change or move has been in operation for at least two years.

(f) The Secretary may not approve the enrollment of an eligible veteran in a course as a part of a program of education offered by an educational institution if the course is provided under contract by another educational institution or entity and—

(1) the Secretary would be barred under subsection (e) from approving the enrollment of an eligible veteran in the course of the educational institution or entity providing the course under contract; or

(2) the educational institution or entity providing the course under contract has not obtained approval for the course under this chapter.

(g) Notwithstanding subsections (e) and (f)(1), the Secretary may approve the enrollment of an eligible veteran in a course approved under this chapter if the course is offered by an educational institution under contract with the Department of Defense or the Department of Homeland Security and is given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

(Added Pub. L. 102–568, title III, § 313(a)(2), Oct. 29, 1992, 106 Stat. 4331; amended Pub. L. 104–275, title I, §§ 103(a)(2), (b), 104(c), Oct. 9, 1996, 110 Stat. 3326, 3327; Pub. L. 105–114, title IV, § 401(d), (e), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 105–368, title X, § 1005(b)(9), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107–103, title I, § 111(a), Dec. 27, 2001, 115 Stat. 986; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

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

2001—Subsec. (a)(4). Pub. L. 107–103 inserted ''(A)'' after ''leading'' and '', or (B) to a certificate that reflects educational attainment offered by an institution of higher learning'' before period at end.

1998—Subsec. (d)(2)(C). Pub. L. 105–368 struck out ''section'' before ''subsection (g)''.

1997—Subsec. (a)(4). Pub. L. 105–114, § 401(d), inserted ''(including open circuit television)'' before ''leading to a standard''.

Subsec. (g). Pub. L. 105–114, § 401(e), substituted ''subsections (e) and (f)(1)'' for ''subsections (e) and (f)''.

1996—Subsec. (c). Pub. L. 104–275, § 104(c), substituted ''radio.'' for ''radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.''

Subsec. (d)(2)(C). Pub. L. 104–275, § 103(a)(2), substituted ''subsection (g)'' for ''3689(b)(6) of this title''.

Subsecs. (e) to (g). Pub. L. 104–275, § 103(b), added subsecs. (e) to (g).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title I, § 111(b), Dec. 27, 2001, 115 Stat. 987, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act [Dec. 27, 2001].''

SAVINGS PROVISION

Section 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.

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 Secu-

rity, 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.

§ 3681. Limitations on educational assistance

(a) No educational assistance allowance granted under chapter 30, 34, 35, or 36 of this title or 106 or 107 of title 10, or subsistence allowance granted under chapter 31 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service; or (2) who is attending a course of education or training paid for under chapter 41 of title 5.

(b) No person may receive benefits concurrently under two or more of the provisions of law listed below:

(1) Chapters 30, 31, 32, 34, 35, and 36 of this title.

(2) Chapters 106 and 107 of title 10.

(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141 note).

(4) The Hostage Relief Act of 1980 (Public Law 96–449, 5 U.S.C. 5561 note).

(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399).

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 21, § 1781; amended Pub. L. 91–219, title II, § 213(1), Mar. 26, 1970, 84 Stat. 83; Pub. L. 92–540, title IV, § 403(8), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94–502, title V, § 513(a)(13), Oct. 15, 1976, 90 Stat. 2403; Pub. L. 96–466, title I, § 102, title VIII, § 801(e), Oct. 17, 1980, 94 Stat. 2187, 2216; Pub. L. 97–295, § 4(53), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98–223, title II, § 203(c)(1), Mar. 2, 1984, 98 Stat. 41; Pub. L. 98–525, title VII, § 703(c), Oct. 19, 1984, 98 Stat. 2564; Pub. L. 99–576, title III, §§ 317, 321(9), Oct. 28, 1986, 100 Stat. 3275, 3278; Pub. L. 101–237, title IV, § 423(a)(8)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3681, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 315, Oct. 29, 1992, 106 Stat. 4333.)

REFERENCES IN TEXT

Section 903 of the Department of Defense Authorization Act, 1981, referred to in subsec. (b)(3), is section 903 of Pub. L. 96–342, title IX, Sept. 8, 1980, 94 Stat. 1115, which is set out as a note under section 2141 of Title 10, Armed Forces.

The Hostage Relief Act of 1980, referred to in subsec. (b)(4), 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.

The Omnibus Diplomatic Security and Antiterrorism Act of 1986, referred to in subsec. (b)(5), is Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 853, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 22, Foreign Relations and Intercourse, and Tables.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1182, 1201, which was classified to former sections 1632(h)(1) and 1762(b) of this title, prior to repeal by sections 4(a) and 3(a)(2) of Pub. L. 89–358, respectively.

AMENDMENTS

1992—Subsec. (a)(2). Pub. L. 102–568 struck out before period at end "and whose full salary is being paid to such person while so training".

1991—Pub. L. 102–83 renumbered section 1781 of this title as this section.

1989—Subsec. (b)(5). Pub. L. 101–237 added par. (5).

1986—Subsec. (b). Pub. L. 99–576 struck out "for the pursuit of the same program of education" after "provisions of law listed below" in introductory text and substituted "Chapters 106 and 107" for "Chapter 107" in par. (2).

1984—Subsec. (a). Pub. L. 98–525, § 703(c)(1)(A)–(C), inserted initial reference to chapter 30 of this title, inserted references to chapters 106 and 107 of title 10, and struck out comma after "chapter 31".

Pub. L. 98–223, § 203(c)(1)(A), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 98–525, § 703(c)(2), inserted reference to chapter 30 of this title in par. (1).

Pub. L. 98–223, § 203(c)(1)(B), added subsec. (b).

1982—Pub. L. 97–295 substituted "chapter 41 of title 5" for "the Government Employees' Training Act".

1980—Pub. L. 96–466 inserted ", or subsistence allowance granted under chapter 31," after "chapter 34, 35, or 36" and substituted "Department of Health and Human Services" for "Department of Health, Education, and Welfare".

1976—Pub. L. 94–502 substituted "such person" for "him".

1972—Pub. L. 92–540 substituted "granted under chapter 34, 35, or 36" for "or special training allowance granted under chapter 34 or 35".

1970—Pub. L. 91–219 substituted "Limitations on educational assistance" for "Nonduplication of benefits" as section catchline and limited duplication of benefits bar to cases of persons on active duty with Armed Forces or Public Health Service whose education or training costs are being paid by Federal Government and persons receiving education or training under Government Employees' Training Act being paid their full salary during that period.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(a)(6) of Pub. L. 96–466 provided that: "The amendments made by sections 102 and 103 [amending this section and section 1795 [now 3695] of this title] shall become effective on October 1, 1980."

Amendment by section 801(e) of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

DUPLICATION OF BENEFITS

Pub. L. 90–574, title V, § 504, Oct. 15, 1968, 82 Stat. 1012, relating to duplication of benefits, was repealed by Pub. L. 91–219, title II, § 215(a), Mar. 26, 1970, 84 Stat. 85.

§ 3682. Control by agencies of the United States

Except as provided in section 3674A of this title, no department, agency, or officer of the United States, in carrying out this chapter, shall exercise any supervision or control, whatsoever, over any State approving agency, or State educational agency, or any educational institution. Nothing in this section shall be deemed to prevent any department, agency, or officer of the United States from exercising any supervision or control which such department, agency, or officer is authorized by law to exercise over any Federal educational institution or to prevent the furnishing of education under this chapter or chapter 34 or 35 of this title in any institution over which supervision or control is exercised by such other department, agency, or officer under authority of law.

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 21, § 1782; amended Pub. L. 92–540, title IV, § 403(9), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 100–323, § 13(b)(6), May 20, 1988, 102 Stat. 574; renumbered § 3682 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1190, 1201, which was classified to former sections 1663 and 1763 of this title, prior to repeal by sections 4(a) and 3(a)(3) of Pub. L. 89–358, respectively.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1782 of this title as this section and substituted ''3674A'' for ''1774A''.

1988—Pub. L. 100–323 substituted ''Except as provided in section 1774A of this title, no'' for ''No''.

1972—Pub. L. 92–540 inserted ''this chapter or'' before ''chapter 34 or 35''.

§ 3683. Conflicting interests

(a) Every officer or employee of the Department of Veterans Affairs who has, while such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 of this title shall be immediately dismissed from such officer's or employee's office or employment.

(b) If the Secretary finds that any person who is an officer or employee of a State approving agency has, while such person was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, an educational institution operated for profit in which an eligible person or veteran was pursuing a program of education or course under this chapter or chapter 34 or 35 of this title, the Secretary shall discontinue making payments under section 3674 of this title to such State approving agency unless such agency shall, without delay, take such steps as may be necessary to terminate the employment of such person and such payments shall not be resumed while such person is an officer or employee of the State approving agency, or State department of veterans' affairs or State department of education.

(c) A State approving agency shall not approve any course offered by an educational institution operated for profit, and, if any such course has been approved, shall disapprove each such course, if it finds that any officer or employee of the Department of Veterans Affairs or the State approving agency owns an interest in, or receives any wages, salary, dividends, profits, gratuities, or services from, such institution.

(d) The Secretary may, after reasonable notice and public hearings, waive in writing the application of this section in the case of any officer or employee of the Department of Veterans Affairs or of a State approving agency, if the Secretary finds that no detriment will result to the United States or to eligible persons or veterans by reasons of such interest or connection of such officer or employee.

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 22, § 1783; amended Pub. L. 92–540, title IV, § 403(10), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94–502, title V, § 513(a)(14)–(16), Oct. 15, 1976, 90 Stat. 2403; Pub. L. 97–295, § 4(54), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3683 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1190, 1201, which was classified to former sections 1664 and 1764 of this title, prior to repeal by sections 4(a) and 3(a)(3) of Pub. L. 89–358, respectively.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1783 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3674'' for ''1774''.

1989—Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1982—Subsec. (a). Pub. L. 97–295 inserted ''of this title'' after ''34 or 35''.

1976—Subsec. (a). Pub. L. 94–502, § 513(a)(14), substituted ''such officer's or employee's'' for ''his''.

Subsec. (b). Pub. L. 94–502, § 513(a)(15), substituted ''while such person was'' for ''while he was'' and ''the Administrator shall discontinue'' for ''he shall discontinue''.

Subsec. (d). Pub. L. 94–502, § 513(a)(16), substituted ''if the Administrator finds'' for ''if he finds''.

1972—Subsecs. (a), (b). Pub. L. 92–540 inserted ''this chapter or'' before ''chapter 34 or 35'' wherever appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3684. Reports by veterans, eligible persons, and institutions; reporting fee

(a)(1) Except as provided in paragraph (2) of this subsection, the veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 31, 34,,[1] 35, or 36 of this title shall, without delay, report to the Secretary, in the form prescribed by the Secretary, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school.

(2)(A) In the case of a program of independent study pursued on less than a half-time basis in an educational institution, the Secretary may approve a delay by the educational institution in reporting the enrollment or reenrollment of an eligible veteran or eligible person until the end of the term, quarter, or semester if the educational institution requests the delay and the Secretary determines that it is not feasible for the educational institution to monitor interruption or termination of the veteran's or eligible person's pursuit of such program.

[1] So in original.

(B) An educational institution which, pursuant to subparagraph (A) of this paragraph, is delaying the reporting of the enrollment or reenrollment of a veteran shall provide the veteran with notice of the delay at the time that the veteran enrolls or reenrolls.

(3)(A) Subject to subparagraph (B) of this paragraph, an educational institution offering courses on a term, quarter, or semester basis may certify the enrollment of a veteran who is not on active duty, or of an eligible person, in such courses for more than one term, quarter, or semester at a time, but not for a period extending beyond the end of a school year (including the summer enrollment period).

(B) Subparagraph (A) of this paragraph shall not apply with respect to any term, quarter, or semester for which the veteran or eligible person is enrolled on a less than half-time basis and shall not be construed as restricting the Secretary from requiring that an educational institution, in reporting an enrollment for more than one term, quarter, or semester, specify the dates of any intervals within or between any such terms, quarters, or semesters.

(b) The Secretary, prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 31, 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the Secretary.

(c) The Secretary may pay to any educational institution, or to the sponsor of a program of apprenticeship, furnishing education or training under either this chapter or chapter 31, 34, or 35 of this title, a reporting fee which will be in lieu of any other compensation or reimbursement for reports or certifications which such educational institution or joint apprenticeship training committee is required to submit to the Secretary by law or regulation. Such reporting fee shall be computed for each calendar year by multiplying $7 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 31, 34, or 35 of this title, or $11 in the case of those eligible veterans and eligible persons whose educational assistance checks are directed in care of each institution for temporary custody and delivery and are delivered at the time of registration as provided under section 3680(d)(4) of this title, during the calendar year. The reporting fee shall be paid to such educational institution or joint apprenticeship training committee as soon as feasible after the end of the calendar year for which it is applicable. No reporting fee payable to an educational institution under this subsection shall be subject to offset by the Secretary against any liability of such institution for any overpayment for which such institution may be administratively determined to be liable under section 3685 of this title unless such liability is not contested by such institution or has been upheld by a final decree of a court of appropriate jurisdiction. The reporting fee payable under this subsection shall be paid from amounts appropriated for readjustment benefits.

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 22, § 1784; amended Pub. L. 90–77, title III, § 308(a), Aug. 31, 1967, 81 Stat. 189; Pub. L. 92–540, title III, § 315, Oct. 24, 1972, 86 Stat. 1084; Pub. L. 93–508, title II, § 210(2), Dec. 3, 1974, 88 Stat. 1585; Pub. L. 94–502, title V, §§ 507, 508, 513(a)(17), Oct. 15, 1976, 90 Stat. 2400, 2403; Pub. L. 95–202, title III, § 304(a)(1), Nov. 23, 1977, 91 Stat. 1442; Pub. L. 96–466, title III, § 343(a), (b)(1), title VI, § 601(e), Oct. 17, 1980, 94 Stat. 2198, 2208; Pub. L. 97–295, § 4(55), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 99–576, title III, §§ 318, 319, Oct. 28, 1986, 100 Stat. 3275; Pub. L. 101–237, title IV, §§ 416(a), 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2086, 2092; renumbered § 3684 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title II, § 201(a), (b), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106–419, title IV, § 404(a)(7), Nov. 1, 2000, 114 Stat. 1865; Pub. L. 108–454, title I, § 110(d), Dec. 10, 2004, 118 Stat. 3605.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1191, 1202, which was classified to former sections 1665(a) and 1765(a) of this title, prior to repeal by sections 4(a) and 3(a)(3) of Pub. L. 89–358, respectively.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–454 substituted ''or to the sponsor of a program of apprenticeship'' for ''or to any joint apprenticeship training committee acting as a training establishment''.

2000—Subsec. (c). Pub. L. 106–419 substituted ''calendar'' for ''calender'' after ''during the''.

1998—Subsec. (c). Pub. L. 105–368, in second sentence, substituted ''during the calender year.'' for ''on October 31 of that year; except that the Secretary may, where it is established by such educational institution or joint apprenticeship training committee that eligible veteran plus eligible person enrollment on such date varies more than 15 percent from the peak eligible veteran enrollment plus eligible person enrollment in such educational institution or joint apprenticeship training committee during such calendar year, establish such other date as representative of the peak enrollment as may be justified for such educational institution or joint apprenticeship training committee.'' and inserted at end ''The reporting fee payable under this subsection shall be paid from amounts appropriated for readjustment benefits.''

1991—Pub. L. 102–83, § 5(a), renumbered section 1784 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3680(d)(4)'' for ''1780(d)(4)'' and ''3685'' for ''1785''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 416(a)(1), substituted ''chapter 31, 34,'' for ''chapter 34''.

Subsec. (a)(2)(A), (3)(B). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

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

Pub. L. 101–237, § 416(a)(2), inserted reference to chapter 31.

Subsec. (c). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 101–237, § 416(a)(3), inserted references to chapter 31.

1986—Subsec. (a)(1), (2). Pub. L. 99–576, § 318, designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2) of this subsection, the'' for ''The'', and added par. (2).

Subsec. (a)(3). Pub. L. 99–576, § 319, added par. (3).

1982—Subsec. (c). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

1980—Pub. L. 96–466, § 343(b)(1), substituted ''Reports by veterans, eligible persons, and institutions'' for ''Reports by institutions'' in section catchline.

Subsec. (a). Pub. L. 96–466, § 343(a)(1), expanded provisions to require reports by veterans and eligible persons.

Subsec. (b). Pub. L. 96–466, § 343(a)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 96–466, §§ 343(a)(2), 601(e), redesignated former subsec. (b) as (c) and substituted ''section 1780(d)(4)'' for ''section 1780(d)(5)''.

1977—Subsec. (b). Pub. L. 95–202 substituted ''$7'' and ''$11'' for ''$5'' and ''$6'', respectively, and inserted provision that no reporting fee payable to an educational institution under this subsection be subject to offset by the Administrator against any liability of the institution for any overpayment for which the institution may be administratively determined to be liable under section 1785 of this title unless that liability is not contested by the institution or has been upheld by a final decree of a court of appropriate jurisdiction.

1976—Subsec. (a). Pub. L. 94–502, §§ 507, 513(a)(17), substituted ''prescribed by the Administrator'' for ''prescribed by him'', and specified the date of interruption or termination as the last date of pursuit, or in the case of a correspondence school, the last date a lesson was serviced.

Subsec. (b). Pub. L. 94–502, §§ 508, 513(a)(17), substituted ''$5'' for ''$3'', ''$6'' for ''$4'', and ''submit to the Administrator'' for ''submit to him''.

1974—Subsec. (b). Pub. L. 93–508 extended the payment of reporting fee to educational institutions under this chapter and to joint apprenticeship training committees acting as training establishments, and in provisions relating to computation of such fee, substituted reference to this chapter for reference to chapter 36 of this title.

1972—Subsec. (a). Pub. L. 92–540, § 315(1), inserted reference to chapter 36 of this title.

Subsec. (b). Pub. L. 92–540, § 315(1), (2), (3), inserted reference to chapter 36 of this title, and substituted provisions relating to the computation of the reporting fee based on the number of eligible veterans or eligible persons enrolled under chapter 34, 35, or 36 of this title, or based on eligible veterans and eligible persons whose educational assistance checks are directed in care of such institution for temporary custody and delivery and are delivered at the time of registration as provided under section 1780(d)(5) of this title, for provisions relating to the computation of such fee based on eligible veterans enrolled under chapter 34 of this title, plus the number of eligible persons enrolled under chapter 35 of this title.

1967—Pub. L. 90–77 provided for the reporting fee in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 201(c), Nov. 11, 1998, 112 Stat. 3326, provided that: ''The amendments made by this section [amending this section] shall apply with respect to calendar years beginning after December 31, 1998.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 416(b) of Pub. L. 101–237 provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 1990.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 343(a), (b)(1) of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

Amendment by section 601(e) of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by section 304(a)(1)(A) of Pub. L. 95–202 effective retroactively to Oct. 1, 1977, and amendment by section 304(a)(1)(B) of Pub. L. 95–202 effective Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 507, 508, and 513(a)(17) of Pub. L. 94–502 effective Dec. 1, 1976, Oct. 1, 1976, and Oct. 15, 1976, respectively, see section 703 of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 3684A. Procedures relating to computer matching program

(a)(1) Notwithstanding section 552a(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

(c) For purposes of this section, the term ''matching program'' has the same meaning provided in section 552a(a)(8) of title 5.

(Added Pub. L. 101–366, title II, § 206(a), Aug. 15, 1990, 104 Stat. 441, § 1784A; renumbered § 3684A, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1784A of this title as this section.

§ 3685. Overpayments to eligible persons or veterans

(a) Whenever the Secretary finds that an overpayment has been made to a veteran or eligible person, the amount of such overpayment shall constitute a liability of such veteran or eligible person to the United States.

(b) Whenever the Secretary finds that an overpayment has been made to a veteran or eligible person as the result of (1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Department of Veterans Affairs excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or (2) the willful or negligent false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States.

(c) Any overpayment referred to in subsection (a) or (b) of this section may be recovered, except as otherwise provided in the last sentence of section 3684(c) of this title, in the same manner as any other debt due the United States.

(d) Any overpayment referred to in subsection (a) or (b) of this section may be waived as to a veteran or eligible person as provided in section 5302 of this title. Waiver of any such overpayment as to a veteran or eligible person shall in no way release any educational institution from liability under subsection (b) of this section.

(e)(1) Any amount collected from a veteran or eligible person pursuant to this section shall be reimbursed to the educational institution which is liable pursuant to subsection (b) of this section to the extent that collection was made from the educational institution.

(2) Nothing in this section or any other provision of this title shall be construed as (A) precluding the imposition of any civil or criminal liability under this title or any other law, or (B) requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 22, § 1785; amended Pub. L. 92–540, title IV, § 403(11), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 95–202, title III, § 304(a)(2), Nov. 23, 1977, 91 Stat. 1442; Pub. L. 96–466, title III, § 344, Oct. 17, 1980, 94 Stat. 2199; Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3685 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1191, 1202, which was classified to former sections 1666 and 1766 of this title, prior to repeal by sections 4(a) and 3(a)(3) of Pub. L. 89–358, respectively.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1785 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3684(c)'' for ''1784(c)''.

Subsec. (d). Pub. L. 102–40 substituted ''5302'' for ''3102''.

1989—Subsecs. (a), (b). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1980—Pub. L. 96–466 designated existing provisions as subsecs. (b), (c), and (e), with minor changes in language, and added subsecs. (a) and (d).

1977—Pub. L. 95–202 inserted '', except as otherwise provided in section 1784(b) of this title,'' after ''recovered'' in first sentence, and inserted last sentence providing that nothing in this section or any other provision of this title shall be construed as requiring any institution of higher learning to maintain daily attendance for any course leading to a standard college degree.

1972—Pub. L. 92–540 inserted ''this chapter or'' before ''chapter 34 or 35''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

§ 3686. Correspondence courses

(a)(1) Each eligible veteran (as defined in section 3452(a)(1) and (2) of this title) and each eligible spouse or surviving spouse (as defined in section 3501(a)(1)(B), (C), or (D) of this title) who enters into an enrollment agreement to pursue a program of education exclusively by correspondence shall be paid an educational assistance allowance computed at the rate of 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by the eligible veteran or spouse or surviving spouse. The term ''established charge'' as used herein means 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 the actual cost to the veteran or spouse or surviving spouse, whichever is the lesser. Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the veteran or spouse or surviving spouse and serviced by the institution.

(2) The period of entitlement of any veteran or spouse or surviving spouse who is pursuing any program of education exclusively by correspondence shall be charged with one month for each $376 which is paid to the veteran or spouse or surviving spouse as an educational assistance allowance for such course.

(3) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, funds in the Department of Veterans Affairs readjustment benefits account shall be available for payments under paragraph (1) of this subsection for pursuit of a program of education exclusively by correspondence in which the veteran or spouse or surviving spouse enrolls after September 30, 1981.

(b) The enrollment agreement shall fully disclose the obligation of both the institution and the veteran or spouse or surviving spouse and shall prominently display the provisions for affirmance, termination, refunds, and the conditions under which payment of the allowance is

made by the Secretary to the veteran or spouse or surviving spouse. A copy of the enrollment agreement shall be furnished to each such veteran or spouse or surviving spouse at the time such veteran or spouse or surviving spouse signs such agreement. No such agreement shall be effective unless such veteran or spouse or surviving spouse shall, after the expiration of ten days after the enrollment agreement is signed, have signed and submitted to the Secretary a written statement, with a signed copy to the institution, specifically affirming the enrollment agreement. In the event the veteran or spouse or surviving spouse at any time notifies the institution of such veteran's or spouse's intention not to affirm the agreement in accordance with the preceding sentence, the institution, without imposing any penalty or charging any fee shall promptly make a full refund of all amounts paid.

(c) In the event a veteran or spouse or surviving spouse elects to terminate such veteran's or spouse's enrollment under an affirmed enrollment agreement, the institution may charge the veteran or spouse or surviving spouse a registration or similar fee not in excess of 10 percent of the tuition for the course, or $50, whichever is less. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of one or more but less than 25 percent of the total number of lessons comprising the course, the institution may retain such registration or similar fee plus 25 percent of the tuition for the course. Where the veteran or spouse or surviving spouse elects to terminate the agreement after completion of 25 percent but less than 50 percent of the lessons comprising the course, the institution may retain the full registration or similar fee plus 50 percent of the course tuition. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(Added Pub. L. 92–540, title III, § 316(1), Oct. 24, 1972, 86 Stat. 1084, § 1786; amended Pub. L. 93–508, title I, § 104(1), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93–602, title II, § 205(a), Jan. 2, 1975, 88 Stat. 1958; Pub. L. 94–502, title V, §§ 501(1), 513(a)(18), Oct. 15, 1976, 90 Stat. 2398, 2403; Pub. L. 95–202, title I, § 104(1), Nov. 23, 1977, 91 Stat. 1435; Pub. L. 96–466, title II, §§ 203(2), 213(2), title VI, § 604, Oct. 17, 1980, 94 Stat. 2189, 2191, 2209; Pub. L. 97–35, title XX, § 2004(a), Aug. 13, 1981, 95 Stat. 782; Pub. L. 97–174, § 5(a), May 4, 1982, 96 Stat. 75; Pub. L. 97–295, § 4(56), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98–543, title II, § 204(1), Oct. 24, 1984, 98 Stat. 2742; Pub. L. 101–237, title IV, § 423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3686 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 605(a)(2)(C), Nov. 2, 1994, 108 Stat. 4672.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–446 struck out ''(other than one subject to the provisions of section 3676 of this title)'' before ''may charge''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1786 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3452(a)(1)'' for ''1652(a)(1)'' and ''3501(a)(1)(B)'' for ''1701(a)(1)(B)''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3676'' for ''1776''.

1989—Subsecs. (a)(3), (b). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1984—Subsec. (a)(2). Pub. L. 98–543 substituted ''$376'' for ''$342''.

1982—Subsec. (a)(3). Pub. L. 97–174 added par. (3).

Subsec. (c). Pub. L. 97–295 substituted ''percent'' for ''per centum'' wherever appearing.

1981—Subsec. (a)(1). Pub. L. 97–35 substituted ''55'' for ''70''.

1980—Subsec. (a)(1). Pub. L. 96–466, § 604, substituted ''70 percent'' for ''90 per centum''.

Subsec. (a)(2). Pub. L. 96–466, § 213(2), substituted ''$342'' for ''$327''.

Pub. L. 96–466, § 203(2), substituted ''$327'' for ''$311''.

1977—Subsec. (a)(2). Pub. L. 95–202 substituted ''$311'' for ''$292''.

1976—Subsec. (a)(1). Pub. L. 94–502, § 513(a)(18), substituted ''spouse or surviving spouse'' for ''wife or widow'' wherever appearing.

Subsec. (a)(2). Pub. L. 94–502, §§ 501(1), 513(a)(18), substituted ''spouse or surviving spouse'' for ''wife or widow'' in two places and ''$292'' for ''$270''.

Subsecs. (b), (c). Pub. L. 94–502, § 513(a)(18), substituted ''spouse or surviving spouse'' for ''wife or widow'' wherever appearing and ''such veteran's or spouse's'' for ''his''.

1975—Subsec. (a)(2). Pub. L. 93–602 substituted ''$270'' for ''$260''.

1974—Subsec. (a)(2). Pub. L. 93–508 substituted ''$260'' for ''220''.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–446 applicable with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after Nov. 2, 1994, see section 605(b) of Pub. L. 103–446, set out as a note under section 3672 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Oct. 1, 1984, see section 205 of Pub. L. 98–543, set out as a note under section 3108 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 5(b) of Pub. L. 97–174 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2004(b) of Pub. L. 97–35 provided that: ''The amendment made by subsection (a) [amending this section] shall not apply to correspondence lessons completed and submitted to the educational institution concerned before October 1, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 203(2) and 213(2) of Pub. L. 96–466 effective Oct. 1, 1980, and Jan. 1, 1981, respectively, see section 802(b) of Pub. L. 96–466, set out as a note under section 3482 of this title.

Amendment by section 604 of Pub. L. 96–466 effective Oct. 1, 1980, except that such amendment not applicable to any person receiving educational assistance under chapter 34 or 35 of this title on Sept. 1, 1980, for the pursuit of a program of education in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of this title as in effect on that date, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 501(1) and 513(a)(18) of Pub. L. 94–502 effective Oct. 1, 1976, and Oct. 15, 1976, respectively, see section 703(a), (b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–602 effective Jan. 1, 1975, see section 206 of Pub. L. 93–602, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Sept. 1, 1974, see section 501 of Pub. L. 93–508, set out as a note under section 3482 of this title.

EFFECTIVE DATE

Section 602 of Pub. L. 92–540 provided that:

''(a) The provisions of section 1786 [now 3686] of title 38, United States Code (as added by section 316 of this Act), which apply to programs of education exclusively by correspondence, shall, as to those wives and widows made eligible for such training by that section, become effective January 1, 1973, and, as to eligible veterans, shall apply only to those enrollment agreements which are entered into on or after January 1, 1973.

''(b) Notwithstanding the provisions of subsection (a) of this section, any enrollment agreement entered into by an eligible veteran prior to January 1, 1973, shall continue to be subject to the provisions of section 1682(c) of title 38, United States Code, prior to its repeal by section 303 of this Act.''

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92–540, set out as a note under section 3512 of this title.

§ 3687. Apprenticeship or other on-job training

(a) An eligible veteran (as defined in section 3452(a)(1) of this title) or an eligible person (as defined in section 3501(a) of this title) shall be paid a training assistance allowance as prescribed by subsection (b) of this section while pursuing a full-time—

(1) program of apprenticeship approved by a State approving agency as meeting the standards of apprenticeship published by the Secretary of Labor pursuant to section 2 of the Act of August 16, 1937 (popularly known as the ''National Apprenticeship Act'') (29 U.S.C. 50a), or

(2) program of other on-job training approved under provisions of section 3677 of this title,

subject to the conditions and limitations of chapters 34 and 35 of this title with respect to educational assistance.

(b)(1) The monthly training assistance allowance of an eligible veteran pursuing a program described under subsection (a) shall be as follows:

Column I	Column II	Column III	Column IV	Column V
Periods of training	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
First 6 months	$274	$307	$336	$14
Second 6 months.	205	239	267	14
Third 6 months	136	171	198	14
Fourth and any succeeding 6-month periods.	68	101	131	14

(2) The monthly training assistance allowance of an eligible person pursuing a program described under subsection (a) shall be $574 for the first six months, $429 for the second six months, $285 for the third six months, and $144 for the fourth and any succeeding six-month period of training.

(3) In any month in which an eligible veteran or person pursuing a program of apprenticeship or a program of other on-job training fails to complete one hundred and twenty hours of training in such month, the monthly training assistance allowance set forth in subsection (b)(1) or (2) of this section, as applicable, shall be reduced proportionately in the proportion that the number of hours worked bears to one hundred and twenty hours rounded off to the nearest eight hours.

(c) For the purpose of this chapter, the terms ''program of apprenticeship'' and ''program of other on-job training'' shall have the same meaning as ''program of education''; and the term ''training assistance allowance'' shall have the same meaning as ''educational assistance allowance'' as set forth in chapters 34 and 35 of this title.

(d) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subsection (b)(2) equal to the percentage by which—

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

(2) such Consumer Price Index for the 12-month period preceding the 12-month period described in paragraph (1).

(e)(1) For each month that an individual (as defined in paragraph (3)) is paid a training assistance allowance under subsection (a), the entitlement of the individual shall be charged at a percentage rate (rounded to the nearest percent) that is equal to the ratio of—

(A) the training assistance allowance for the month involved, to

(B) the monthly educational assistance allowance otherwise payable for full-time enrollment in an educational institution.

(2) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (1) shall be reduced in the same proportion as the monthly training assistance allowance payable is reduced under subsection (b)(3).

(3) In this section, the term ''individual'' means—

(A) an eligible veteran who is entitled to monthly educational assistance allowances payable under section 3015(e) of this title, or

(B) an eligible person who is entitled to monthly educational assistance allowances payable under section 3532(a) of this title,

as the case may be.

(Added Pub. L. 92–540, title III, § 316(1), Oct. 24, 1972, 86 Stat. 1085, § 1787; amended Pub. L. 93–508, title I, § 104(2), (3), Dec. 3, 1974, 88 Stat. 1580; Pub. L. 93–602, title II, § 205(b), Jan. 2, 1975, 88 Stat. 1959; Pub. L. 94–502, title V, § 501(2), Oct. 15, 1976, 90 Stat. 2398; Pub. L. 95–202, title I, § 104(2), Nov. 23, 1977, 91 Stat. 1435; Pub. L. 96–466, title II, §§ 203(3), 213(3), Oct. 17, 1980, 94 Stat. 2189, 2191; Pub. L. 97–295, § 4(57), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98–543, title II, § 204(2), Oct. 24, 1984, 98 Stat. 2742; Pub. L. 101–237, title IV, § 403(b), Dec. 18, 1989, 103 Stat. 2080; renumbered § 3687 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–178, title VIII, § 8210(d), as added Pub. L. 105–206, title IX, § 9014(b), July 22, 1998, 112 Stat. 866; Pub. L. 106–419, title I, § 111(d), (f)(2), Nov. 1, 2000, 114 Stat. 1830, 1831; Pub. L. 107–103, title I, § 102(d), Dec. 27, 2001, 115 Stat. 978; Pub. L. 108–183, title III, § 302(d), Dec. 16, 2003, 117 Stat. 2659; Pub. L. 108–454, title I, § 102(a), Dec. 10, 2004, 118 Stat. 3600.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1683, as added by Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 91–219, title I, § 103(e), Mar. 26, 1970, 84 Stat. 77; Pub. L. 91–584, § 7, Dec. 24, 1970, 84 Stat. 1576, prior to repeal by section 401(6) of Pub. L. 92–540.

AMENDMENTS

2004—Subsec. (e). Pub. L. 108–454 added subsec. (e).

2003—Subsec. (b)(2). Pub. L. 108–183 substituted ''shall be $574 for the first six months, $429 for the second six months, $285 for the third six months, and $144 for the fourth and any succeeding six-month period of training.'' for ''shall be $488 for the first six months, $365 for the second six months, $242 for the third six months, and $122 for the fourth and any succeeding six-month periods of training.''

2001—Subsec. (b)(2). Pub. L. 107–103 substituted ''$488'' for ''$428'', ''$365'' for ''$320'', ''$242'' for ''$212'', and ''$122'' for ''$107''.

2000—Subsec. (b)(2). Pub. L. 106–419, § 111(d), substituted ''$428'' for ''$353'', ''$320'' for ''$264'', ''$212'' for ''$175'', and ''$107'' for ''$88''.

Subsec. (d). Pub. L. 106–419, § 111(f)(2), added subsec. (d).

1998—Subsec. (b)(2). Pub. L. 105–178, § 8210(d), as added by Pub. L. 105–206, § 9014(b), substituted ''$353'' for ''$294'', ''$264'' for ''$220'', ''$175'' for ''$146'', and ''$88'' for ''$73''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1787 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3452(a)(1)'' for ''1652(a)(1)'' and ''3501(a)'' for ''1701(a)'' in introductory provisions and ''3677'' for ''1777'' in par. (2).

1989—Subsec. (b)(2). Pub. L. 101–237 substituted ''$294 for the first six months, $220 for the second six months, $146 for the third six months, and $73 for the fourth and any succeeding six-month periods of training'' for ''computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course''.

1984—Subsec. (b)(1). Pub. L. 98–543 increased monthly training assistance allowance of eligible veterans in column II from $249, $186, $124 and $62 to $274, $205, $136, and $68; in column III from $279, $217, $155, and $92 to $307, $239, $171, and $101; in column IV from $305, $243, $180, and $119 to $336, $267, $198 and $131; in column V from $13, $13, $13 and $13 to $14, $14, $14 and $14, respectively.

1982—Subsec. (a). Pub. L. 97–295 substituted ''section 2 of the Act of August 16, 1937 (popularly known as the 'National Apprenticeship Act')(29 U.S.C. 50a)'' for ''section 50a of title 29'' in cl. (1), and inserted ''of this title'' after ''34 and 35'' in provisions following cl. (2).

1980—Subsec. (b)(1). Pub. L. 96–466, § 213(3), increased monthly training assistance allowance of eligible veterans in column II from $237, $177, $119, and $59 to $249, $186, $124, and $62; in column III from $267, $207, $148, and $88 to $279, $217, $155, and $92; in column IV from $291, $232, $172, and $113 to $305, $243, $180, and $119, respectively.

Pub. L. 96–466, § 203(3), increased monthly training assistance allowance of eligible veterans in column II from $226, $169, $113, and $56 to $237, $177, $119, and $59; in column III from $254, $197, $141, and $84 to $267, $207, $148, and $88; in column IV from $277, $221, $164, and $108 to $291, $232, $172, and $113; in column V from $12, $12, $12, and $12 to $13, $13, $13, and $13, respectively.

1977—Subsec. (b)(1). Pub. L. 95–202 increased monthly training assistance allowance of eligible veterans in column II from $212, $159, $106, and $53 to $226, $169, $113, and $56; in column III from $238, $185, $132, and $79 to $254, $197, $141, and $84; in column IV from $260, $207, $154, and $101 to $277, $221, $164, and $108; in column V from $11, $11, $11, and $11 to $12, $12, $12, and $12, respectively.

1976—Subsec. (b)(1). Pub. L. 94–502 increased monthly training assistance allowance of eligible veterans in column II from ''$196'', ''$147'', ''$98'', and ''$49'' to ''$212'', ''$159'', ''$106'', and ''$53''; in column III from ''$220'', ''$171'', ''$122'', and ''$73'' to ''$238'', ''$185'', ''$132'', and ''$79''; in column IV from ''$240'', ''$191'', ''$142'', and ''$93'' to ''$260'', ''$207'', ''$154'', and ''$101''; and in column V from ''$10'', ''$10'', ''$10'', and ''$10'' to ''$11'', ''$11'', ''$11'', and ''$11'' respectively.

1975—Subsec. (b)(1). Pub. L. 93–602 increased monthly training assistance allowance of eligible veterans in column II from ''$189'', ''$142'', ''$95'', and ''$47'' to ''$196'', ''$147'', ''$98'', and ''$49''; in column III from ''$212'', ''$164'', ''$117'', ''$70'' to ''$220'', ''$171'', ''$122'', and ''$73''; in column IV from ''$232'', ''$184'', ''$137'', and ''$90'' to ''$240'', ''$191'', ''$142'', and ''$93''; and in column V from ''$9'', ''$9'', ''$9'', and ''$9'' to ''$10'', ''$10'', ''$10'', and ''$10'' respectively.

1974—Subsec. (b)(1). Pub. L. 93–508, § 104(2), increased monthly training assistance allowance of eligible veterans in column II from ''$160, $120, $80, and $40'' to ''$189, $142, $95, and $47''; in column III from ''$179, $139, $99, and $59'' to ''$212, $164, $117, and $70''; in column IV from ''$196, $156, $116, and $76'' to ''$232, $184, $137, and $90''; and in column V from ''$8, $8, $8, and $8'' to ''$9, $9, $9, and $9'' respectively.

Subsec. (b)(2). Pub. L. 93–508, § 104(3), substituted ''computed at the rate prescribed in paragraph (1) of this subsection for an eligible veteran with no dependents pursuing such a course'' for ''(A) $160 during the first six-month period, (B) $120 during the second six-month period, (C) $80 during the third six-month period, and (D) $40 during the fourth and any succeeding six-month period''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title I, § 102(b), Dec. 10, 2004, 118 Stat. 3600, provided that:''The amendment made by subsection (a) [amending this section] shall apply with respect to months beginning after September 30, 2005.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 effective July 1, 2004, and applicable with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of this title for months beginning on or after that date, see section 302(e) of Pub. L. 108–183, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–103 effective Jan. 1, 2002, and applicable with respect to educational assistance

allowances payable under chapter 35 of this title and subsec. (b)(2) of this section for months beginning on or after that date, see section 102(e) of Pub. L. 107–103, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 111(d) of Pub. L. 106–419 effective Nov. 1, 2000, and applicable with respect to educational assistance allowances paid under chapter 35 of title 38 for months after October 2000, see section 111(e) of Pub. L. 106–419, set out as a note under section 3532 of this title.

Subsec. (d) of this section effective Oct. 1, 2001, see section 111(f)(3) of Pub. L. 106–419, set out as an Effective Date note under section 3564 of this title.

EFFECTIVE DATE OF 1998 AMENDMENTS

Title IX of Pub. L. 105–206 effective simultaneously with enactment of Pub. L. 105–178 and to be treated as included in Pub. L. 105–178 at time of enactment, see section 9016 of Pub. L. 105–206, set out as a note under section 101 of Title 23, Highways.

Amendment by Pub. L. 105–178 effective Oct. 1, 1998, and applicable with respect to educational assistance allowances paid for months after September 1998, see section 8210(e) of Pub. L. 105–178, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Jan. 1, 1990, see section 403(c) of Pub. L. 101–237, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Oct. 1, 1984, see section 205 of Pub. L. 98–543, set out as a note under section 3108 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 203(3) and 213(3) of Pub. L. 96–466 effective Oct. 1, 1980, and Jan. 1, 1981, respectively, see section 802(b) of Pub. L. 96–466, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective retroactively to Oct. 1, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 1, 1976, see section 703(a) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93–602 effective Jan. 1, 1975, see section 206 of Pub. L. 93–602, set out as a note under section 3482 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Sept. 1, 1974, see section 501 of Pub. L. 93–508, set out as a note under section 3482 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1972, except for those veterans and eligible persons in training on Oct. 24, 1972, see section 601(a) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 3482 of this title.

INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APPRENTICESHIP OR ON-JOB TRAINING; SURVIVORS AND DEPENDENTS EDUCATIONAL ASSISTANCE

Pub. L. 108–454, title I, § 103(c), Dec. 10, 2004, 118 Stat. 3601, provided that:

''(1) For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (b)(2) of section 3687 of title 38, United States Code, shall be applied as if—

''(A) the reference to '$574 for the first six months' were a reference to '$650 for the first six months';

''(B) the reference to '$429 for the second six months' were a reference to '$507 for the second six months'; and

''(C) the reference to '$285 for the third six months' were a reference to '$366 for the third six months'.

''(2) Subsection (d) of such section 3687 shall not apply with respect to the provisions of paragraph (1) for months occurring during fiscal year 2006.

''(3) For months beginning on or after January 1, 2008, the Secretary shall carry out subsection (b)(2) of such section 3687 as if paragraphs (1) and (2) were not enacted into law.''

TERMINATION OF ELIGIBILITY PERIOD

Termination of eligibility period for a wife or widow, or an eligible person eight years from Oct. 24, 1972, see section 604 of Pub. L. 92–540.

§ 3688. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of 22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed;

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of 18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required;

(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when (A) a minimum of four units per year is required or (B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years. For the purpose of subclause (A) of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

(4) an institutional undergraduate course offered by a college or university on a standard quarter- or semester-hour basis, other than a course pursued as part of a program of education beyond the baccalaureate level, shall be considered a full-time course when a minimum of fourteen semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, is required, except that where such college or university certifies, upon the request of the Secretary, that (A) full-time tuition is charged to all undergraduate students carry-

ing a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible veteran or person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining;

(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 3034(a)(3), 3241(a)(2), or 3533(a) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) of this subsection as determined by the educational institution; and

(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.

(b) The Secretary shall define part-time training in the case of the types of courses referred to in subsection (a), and shall define full-time and part-time training in the case of all other types of courses pursued under this chapter, chapter 30, 32, or 35 of this title, or chapter 106 of title 10.

(Added Pub. L. 92–540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1086, § 1788; amended Pub. L. 93–508, title II, § 211, Dec. 3, 1974, 88 Stat. 1585; Pub. L. 94–502, title V, § 509(a), Oct. 15, 1976, 90 Stat. 2400; Pub. L. 95–202, title III, § 304(a)(3), Nov. 23, 1977, 91 Stat. 1442; Pub. L. 96–466, title III, § 345, title VI, § 601(f), Oct. 17, 1980, 94 Stat. 2199, 2208; Pub. L. 97–295, § 4(58), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 99–576, title III, § 315(a)(2), (b), Oct. 28, 1986, 100 Stat. 3274; Pub. L. 100–322, title III, § 321(a), May 20, 1988, 102 Stat. 535; Pub. L. 101–237, title IV, §§ 413(a), 417, 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2085, 2086, 2092; renumbered § 3688 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 316(a), Oct. 29, 1992, 106 Stat. 4333; Pub. L. 103–446, title VI, § 607, title XII, § 1201(e)(12), Nov. 2, 1994, 108 Stat. 4672, 4685.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1684, as added by Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 18, § 1683; renumbered Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; amended Pub. L. 91–219, title II, § 206(a), Mar. 26, 1970, 84 Stat. 81; Pub. L. 91–584, §§ 8, 11, Dec. 24, 1970, 84 Stat. 1577; and former section 1733, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1198; Pub. L. 91–219, title II, § 206(b), Mar. 26, 1970, 84 Stat. 82; Pub. L. 91–584, § 12, Dec. 24, 1970, 84 Stat. 1577, prior to the general revision by Pub. L. 92–540.

AMENDMENTS

1994—Subsec. (a)(6). Pub. L. 103–446, § 1201(e)(12), inserted comma after ''3241(a)(2)''.

Subsec. (b). Pub. L. 103–446, § 607, substituted ''this chapter,'' for ''this chapter or'' and inserted '', or chapter 106 of title 10'' after ''this title''.

1992—Subsec. (a). Pub. L. 102–568, § 316(a)(1)(E), struck out concluding provisions which read as follows: ''Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours (or two 50-minute periods) of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours (or three 50-minute periods) of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.''

Subsec. (a)(1). Pub. L. 102–568, § 316(a)(1)(A), substituted ''22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed'' for ''thirty hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 3675(a)(1) of this title, then 22 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time''.

Subsec. (a)(2). Pub. L. 102–568, § 316(a)(1)(B), substituted ''18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required'' for ''twenty-five hours per week net of instruction and not more than 5 hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 3675(a)(1) of this title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time''.

Subsec. (a)(4). Pub. L. 102–568, § 316(a)(1)(C), inserted '', other than a course pursued as part of a program of education beyond the baccalaureate level,'' after ''semester-hour basis'' and struck out ''in residence'' after ''by a college or university''.

Subsec. (a)(6). Pub. L. 102–568, § 316(a)(1)(D), substituted ''3034(a)(3), 3241(a)(2) or 3533(a)'' for ''3491(a)(2)''.

Subsec. (a)(7). Pub. L. 102–568, § 316(a)(1)(E), added par. (7) and struck out former par. (7) which read as follows: ''an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) of this subsection if (A) such course is approved pursuant to section 3675 of this title, and (B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree.''

Subsec. (b). Pub. L. 102–568, § 316(a)(2), substituted ''30, 32,'' for ''34''.

Subsecs. (c) to (e). Pub. L. 102–568, § 316(a)(3), struck out subsec. (c) which defined ''in residence on a standard quarter- or semester-hour basis'' for purposes of subsec. (a), subsec. (d) which specified which institutional undergraduate courses were to be considered full-time courses, and subsec. (e) which provided method for determining clock hours of enrollment.

1991—Pub. L. 102–83, § 5(a), renumbered section 1788 of this title as this section.

Subsec. (a)(1), (2), (6), (7). Pub. L. 102–83, § 5(c)(1), substituted ''3675(a)(1)'' for ''1775(a)(1)'' in pars. (1) and (2), ''3491(a)(2)'' for ''1691(a)(2)'' in par. (6), and ''3675'' for ''1775'' in par. (7).

1989—Subsec. (a). Pub. L. 101–237, § 413(a)(1), inserted ''(or three 50-minute periods)'' after ''three hours'' in cl. (C) of penultimate sentence.

Subsecs. (a)(4), (b). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 101–237, § 413(a)(2), inserted ''(or three 50-minute periods)'' after ''three hours'' in last sentence.

Subsec. (e). Pub. L. 101–237, § 417, amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''For the purpose of determining whether a course—

''(1) which is offered by an institution of higher learning, and

''(2) for which such institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree

will, during the semester (or quarter or other applicable portion of the academic year) when such unit course or subject is being pursued, be considered full time under clause (1) or (2) of subsection (a) of this section, each of the numbers of hours specified in such clause shall be deemed to be reduced, during such semester (or other portion of the academic year), by the percentage described in the following sentence and rounded as the Administrator may prescribe. Such percentage is the percentage that the number of semester hours (or the equivalent thereof) represented by such unit course or subject is of the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.''

1988—Subsec. (a). Pub. L. 100–322, § 321(a)(1), inserted ''(or two 50-minute periods)'' after ''two hours'' in cl. (B) of penultimate sentence.

Subsec. (c). Pub. L. 100–322, § 321(a)(2), inserted ''(or two 50-minute periods)'' after ''two hours''.

1986—Subsec. (a)(7). Pub. L. 99–576, § 315(a)(2)(A), added par. (7).

Subsec. (c). Pub. L. 99–576, § 315(a)(2)(B), struck out ''(4)'' after ''(a)''.

Subsec. (e). Pub. L. 99–576, § 315(b), added subsec. (e).

1982—Subsec. (a)(6). Pub. L. 97–295 inserted ''of this subsection'' after ''or (4)''.

1980—Subsec. (a)(1), (2). Pub. L. 96–466, § 345(a)(1), substituted ''section 1775(a)(1) of this title'' for ''section 1775 of this title''.

Subsec. (a)(4). Pub. L. 96–466, § 345(a)(2), (3), substituted ''in residence on a standard quarter- or semester-hour basis'' for ''on a quarter- or semester-hour basis'', and inserted ''per semester'' after ''minimum of fourteen semester hours''.

Subsec. (a)(6). Pub. L. 96–466, § 601(f), substituted ''under section 1691(a)(2) of this title'' for ''under section 1691(a)(2) or 1696(a)(2) of this title''.

Subsecs. (c), (d). Pub. L. 96–466, § 345(b), added subsecs. (c) and (d).

1977—Subsec. (a)(1). Pub. L. 95–202, § 304(a)(3)(A), (B), substituted ''two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 1775 of this title, then 22 hours per week of attendance'' for ''two and one-half hours of rest periods per week allowed, but if such course is approved pursuant to section 1775 of this title, then 27 hours per week of attendance''.

Subsec. (a)(2). Pub. L. 95–202, § 304(a)(3)(C), (D), substituted ''minimum of twenty-five hours per week net of instruction and not more than 5 hours of supervised study'' for ''minimum of twenty-five hours per week net of instruction'' and ''18 hours per week'' for ''22 hours per week''.

1976—Subsec. (a)(1). Pub. L. 94–502, § 509(a)(1), provided that, if a course was approved pursuant to section 1775 of this title, then 27 hours of attendance per week with no more than 2½ hours of rest period per week would be considered full time.

Subsec. (a)(2). Pub. L. 94–502, § 509(a)(2), provided that, if a course was approved pursuant to section 1775 of this title, then 22 hours of instruction per week with a ten minute interval between hours would be considered full time.

1974—Subsec. (a). Pub. L. 93–508 in cl. (1) substituted ''basis, not leading to a standard college degree involving'' for ''basis below the college level involving''; in cl. (2) substituted ''basis, not leading to a standard college degree, in which'' for ''basis below the college level in which''; in cl. (6) substituted ''not leading to a standard college degree'' for ''below the college level''; and following cl. (6), inserted provisions that notwithstanding cls. (1) and (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis with special requirements for the academic, laboratory, and shop portions of such courses, and that in no event such course be considered a full-time course unless twenty-two hours per week of attendance is required.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–568 applicable to enrollments in courses beginning on or after July 1, 1993, see section 316(c) of Pub. L. 102–568, set out as a note under section 3532 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 321(b) of Pub. L. 100–322 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act [May 20, 1988].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 345 of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

Amendment by section 601(f) of Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective first day of first month beginning 60 days after Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

§ 3689. Approval requirements for licensing and certification testing

(a) IN GENERAL.—(1) No payment may be made for a licensing or certification test described in section 3452(b) or 3501(a)(5) of this title unless the Secretary determines that the requirements of this section have been met with respect to such test and the organization or entity offering the test. The requirements of approval for tests and organizations or entities offering tests shall be in accordance with the provisions of this chapter and chapters 30, 32, 34, and 35 of this title and with regulations prescribed by the Secretary to carry out this section.

(2) To the extent that the Secretary determines practicable, State approving agencies may, in lieu of the Secretary, approve licensing and certification tests, and organizations and entities offering such tests, under this section.

(b) REQUIREMENTS FOR TESTS.—(1) Subject to paragraph (2), a licensing or certification test is approved for purposes of this section only if—

(A) the test is required under Federal, State, or local law or regulation for an individual to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession; or

(B) the Secretary determines that the test is generally accepted, in accordance with relevant government, business, or industry standards, employment policies, or hiring practices, as attesting to a level of knowledge or skill required to qualify to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession.

(2) A licensing or certification test offered by a State, or a political subdivision of a State, is deemed approved by the Secretary for purposes of this section.

(c) REQUIREMENTS FOR ORGANIZATIONS OR ENTITIES OFFERING TESTS.—(1) Each organization or entity that is not an entity of the United States, a State, or political subdivision of a State, that offers a licensing or certification test for which payment may be made under chapter 30, 32, 34, or 35 of this title and that meets the following requirements, shall be approved by the Secretary to offer such test:

(A) The organization or entity certifies to the Secretary that the licensing or certification test offered by the organization or entity is generally accepted, in accordance with relevant government, business, or industry standards, employment policies, or hiring practices, as attesting to a level of knowledge or skill required to qualify to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession.

(B) The organization or entity is licensed, chartered, or incorporated in a State and has offered such test, or a test to certify or license in a similar or related occupation, for a minimum of two years before the date on which the organization or entity first submits to the Secretary an application for approval under this section.

(C) The organization or entity employs, or consults with, individuals with expertise or substantial experience with respect to all areas of knowledge or skill that are measured by the test and that are required for the license or certificate issued.

(D) The organization or entity has no direct financial interest in—

(i) the outcome of the test; or

(ii) organizations that provide the education or training of candidates for licenses or certificates required for vocations or professions.

(E) The organization or entity maintains appropriate records with respect to all candidates who take the test for a period prescribed by the Secretary, but in no case for a period of less than three years.

(F)(i) The organization or entity promptly issues notice of the results of the test to the candidate for the license or certificate.

(ii) The organization or entity has in place a process to review complaints submitted against the organization or entity with respect to the test or the process for obtaining a license or certificate required for vocations or professions.

(G) The organization or entity furnishes to the Secretary such information with respect to the test as the Secretary requires to determine whether payment may be made for the test under chapter 30, 32, 34, or 35 of this title, including personal identifying information, fee payment, and test results. Such information shall be furnished in the form prescribed by the Secretary.

(H) The organization or entity furnishes to the Secretary the following information:

(i) A description of the licensing or certification test offered by the organization or entity, including the purpose of the test, the vocational, professional, governmental, and other entities that recognize the test, and the license or certificate issued upon successful completion of the test.

(ii) The requirements to take the test, including the amount of the fee charged for the test and any prerequisite education, training, skills, or other certification.

(iii) The period for which the license or certificate awarded upon successful completion of the test is valid, and the requirements for maintaining or renewing the license or certificate.

(I) Upon request of the Secretary, the organization or entity furnishes such information to the Secretary that the Secretary determines necessary to perform an assessment of—

(i) the test conducted by the organization or entity as compared to the level of knowledge or skills that a license or certificate attests; and

(ii) the applicability of the test over such periods of time as the Secretary determines appropriate.

(2) With respect to each organization or entity that is an entity of the United States, a State,

or political subdivision of a State, that offers a licensing or certification test for which payment may be made under chapters 30, 32, 34, or 35 of this title, the following provisions of paragraph (1) shall apply to the entity: subparagraphs (E), (F), (G), and (H).

(d) ADMINISTRATION.—Except as otherwise specifically provided in this section or chapter 30, 32, 34, or 35 of this title, in implementing this section and making payment under any such chapter for a licensing or certification test, the test is deemed to be a ''course'' and the organization or entity that offers such test is deemed to be an ''institution'' or ''educational institution'', respectively, as those terms are applied under and for purposes of sections 3671, 3673, 3674, 3678, 3679, 3681, 3682, 3683, 3685, 3690, and 3696 of this title.

(e) PROFESSIONAL CERTIFICATION AND LICENSURE ADVISORY COMMITTEE.—(1) There is established within the Department a committee to be known as the Professional Certification and Licensure Advisory Committee (hereinafter in this section referred to as the ''Committee'').

(2) The Committee shall advise the Secretary with respect to the requirements of organizations or entities offering licensing and certification tests to individuals for which payment for such tests may be made under chapter 30, 32, 34, or 35 of this title, and such other related issues as the Committee determines to be appropriate.

(3)(A) The Secretary shall appoint seven individuals with expertise in matters relating to licensing and certification tests to serve as members of the Committee.

(B) The Secretary of Labor and the Secretary of Defense shall serve as ex officio members of the Committee.

(C) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(4)(A) The Secretary shall appoint the chairman of the Committee.

(B) The Committee shall meet at the call of the chairman.

(5) The Committee shall terminate December 31, 2006.

(Added Pub. L. 106–419, title I, § 122(c)(1), Nov. 1, 2000, 114 Stat. 1835; amended Pub. L. 107–330, title III, § 308(d), Dec. 6, 2002, 116 Stat. 2828.)

PRIOR PROVISIONS

A prior section 3689, added Pub. L. 92–540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1087, § 1789; amended Pub. L. 94–502, title V, § 509(b), Oct. 15, 1976, 90 Stat. 2401; Pub. L. 95–202, title III, § 305(a)(1), Nov. 23, 1977, 91 Stat. 1442; Pub. L. 96–466, title VI, § 601(g), Oct. 17, 1980, 94 Stat. 2208; Pub. L. 101–237, title IV, §§ 418, 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2087, 2092; renumbered § 3689, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, related to approval of enrollment in courses in operation for less than two years, prior to repeal by Pub. L. 104–275, title I, § 103(a)(1)(A), Oct. 9, 1996, 110 Stat. 3326.

AMENDMENTS

2002—Subsec. (c)(1)(B). Pub. L. 107–330 substituted ''such test, or a test to certify or license in a similar or related occupation,'' for ''the test''.

EFFECTIVE DATE

Section effective Mar. 1, 2001, and applicable with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date, see section 122(d) of Pub. L. 106–419, set out as an Effective Date of 2000 Amendment note under section 3032 of this title.

§ 3690. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) If the Secretary finds that an educational institution has—

(1) charged or received from any eligible veteran or eligible person pursuing a program of education under this chapter or chapter 34 or 35 of this title any amount for any course in excess of the charges for tuition and fees which such institution requires similarly circumstanced nonveterans not receiving assistance under such chapters who are enrolled in the same course to pay, or

(2) instituted, after October 24, 1972, a policy or practice with respect to the payment of tuition, fees, or other charges in the case of eligible veterans and the Secretary finds that the effect of such policy or practice substantially denies to veterans the benefits of the advance allowances under such section,

the Secretary may disapprove such educational institution for the enrollment of any eligible veteran or eligible person not already enrolled therein under this chapter or chapter 31, 34, or 35 of this title.

Discontinuance of Allowances

(b)(1) The Secretary may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Secretary finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Secretary finds that the educational institution offering such program or course has violated any provision of this chapter or chapter 34 or 35 of this title, or fails to meet any of the requirements of such chapters.

(2) Except as provided in paragraph (3) of this subsection, any action by the Secretary under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Secretary so discontinues any such assistance, the Secretary shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

(3)(A) The Secretary may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Secretary has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such

course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 30, 32, 34, or 35 of this title.

(B) Action may be taken under subparagraph (A) of this paragraph only after—

(i) the Secretary provides to the State approving agency concerned and the educational institution concerned written notice of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements;

(ii) such institution refuses to take corrective action or does not within 60 days after such notice (or within such longer period as the Secretary determines is reasonable and appropriate) take corrective action; and

(iii) the Secretary, not less than 30 days before taking action under such subparagraph, provides to each eligible veteran and eligible person already enrolled in such course written notice of the Secretary's intent to take such action (and the reasons therefor) unless such corrective action is taken within such 60 days (or within such longer period as the Secretary has determined is reasonable and appropriate), and of the date on which the Secretary intends to take action under such subparagraph.

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Secretary determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

False or Misleading Statements

(d) Whenever the Secretary finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the Secretary shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

(Added Pub. L. 92–540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1088, § 1790; amended Pub. L. 94–502, title V, §§ 510, 513(a)(19), Oct. 15, 1976, 90 Stat. 2401, 2403; Pub. L. 95–202, title III, § 306, Nov. 23, 1977, 91 Stat. 1445; Pub. L. 96–466, title VIII, § 801(f), Oct. 17, 1980, 94 Stat. 2216; Pub. L. 97–295, § 4(59), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97–306, title II, § 207, Oct. 14, 1982, 96 Stat. 1435; Pub. L. 101–237, title IV, § 423(a)(9), (b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3690, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–86, title V, § 506(b)(1), Aug. 14, 1991, 105 Stat. 426.)

Prior Provisions

Provisions similar to those comprising subsec. (a) were contained in former section 1685, as added by Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1684; renumbered Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186, and former section 1734, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 89–358, § 4(m), Mar. 3, 1966, 80 Stat. 25; provisions similar to those comprising subsec. (b) were contained in former section 1687, as added by Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 19, § 1686; renumbered Pub. L. 90–77, title III, § 304(a), Aug. 31, 1967, 81 Stat. 186; and former section 1736, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 88–126, § 2, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89–358, § 4(*o*), Mar. 3, 1966, 80 Stat. 25; provisions similar to those comprising subsec. (c) were contained in former section 1786, as added by Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23; and provisions similar to those comprising subsec. (d) were contained in former section 1787, as added by Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23; prior to the general revision by Pub. L. 92–540.

Amendments

1991—Pub. L. 102–83 renumbered section 1790 of this title as this section.

Subsec. (b). Pub. L. 102–86 made technical amendment to directory language of Pub. L. 101–237, § 423(b)(2). See 1989 Amendment note below.

1989—Subsec. (a). Pub. L. 101–237, § 423(a)(9)(A), (b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing and struck out "and prepayment" after "advance" in par. (2).

Subsec. (b). Pub. L. 101–237, § 423(a)(9)(B), (C), (b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing, inserted "30," before "32" in par. (3)(A), and in par. (3)(B) substituted "(B)" for "(B)(i)" and redesignated subcls. (I), (II), and (III) as cls. (i), (ii), and (iii), respectively.

Pub. L. 101–237, § 423(b)(2), as amended by Pub. L. 102–86, substituted "Secretary's" for "Administrator's" in par. (3)(B)(iii).

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

1982—Subsec. (a). Pub. L. 97–295, § 4(59)(A), substituted "after October 24, 1972" for "after the effective date of section 1780 of this title" in par. (2), and struck out the comma after "or 35" in provisions following par. (2).

Subsec. (b)(1). Pub. L. 97–295, § 4(59)(B), inserted "of this title" after "provision of this chapter or chapter 34 or 35".

Subsec. (b)(2). Pub. L. 97–306, § 207(1), substituted "Except as provided in paragraph (3) of this subsection, any" for "Any".

Subsec. (b)(3). Pub. L. 97–306, § 207(2), added par. (3).

1980—Subsec. (b)(2). Pub. L. 96–466 substituted "for" for "therefor".

1977—Subsec. (b). Pub. L. 95–202 designated existing provisions as par. (1) and added par. (2).

1976—Subsec. (a). Pub. L. 94–502, § 513(a)(19), substituted "the Administrator may disapprove" for "he may disapprove".

Subsec. (b). Pub. L. 94–502, § 513(a)(19), substituted "if the Administrator finds" for "if he finds" in two places.

Subsec. (c). Pub. L. 94–502, § 510, substituted "chapter 31, 32, 34, or 35" for "chapter 31, 34, or 35" and required the records of other students which the Administrator determines necessary to ascertain institutional compliance to be available for inspection.

Subsec. (d). Pub. L. 94–502, § 513(a)(19), substituted "the Administrator shall make" for "he shall make".

Effective Date of 1991 Amendment

Section 506(b)(1) of Pub. L. 102–86 provided that the amendment made by that section is effective as of Dec. 18, 1989.

Effective Date of 1980 Amendment

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3691. Change of program

(a) Except as provided in subsections (b) and (c) of this section, each eligible veteran and eligible person may make not more than one change of program of education, but an eligible veteran or eligible person whose program has been interrupted or discontinued due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application shall not be entitled to any such change.

(b) The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section (or an initial change in the case of a veteran or person not eligible to make a change under subsection (a)) in program if the Secretary finds that—

(1) the program of education which the eligible veteran or eligible person proposes to pursue is suitable to the veteran's or person's aptitudes, interests, and abilities; and

(2) in any instance where the eligible veteran or eligible person has interrupted, or failed to progress in, the veteran's or person's program due to the veteran's or person's own misconduct, the veteran's or person's own neglect, or the veteran's or person's own lack of application, there exists a reasonable likelihood with respect to the program which the eligible veteran or eligible person proposes to pursue that there will not be a recurrence of such an interruption or failure to progress.

(c) The Secretary may also approve additional changes in program if the Secretary finds such changes are necessitated by circumstances beyond the control of the eligible veteran or eligible person.

(d) For the purposes of this section, the term ''change of program of education'' shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—

(1) the veteran or eligible person has successfully completed the former program;

(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;

(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or

(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.

(Added Pub. L. 92–540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1089, § 1791; amended Pub. L. 94–502, title V, § 513(a)(20), Oct. 15, 1976, 90 Stat. 2403; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 101–366, title II, § 208(a), Aug. 15, 1990, 104 Stat. 443; renumbered § 3691, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title III, § 317, Oct. 29, 1992, 106 Stat. 4334.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 1672, as added by Pub. L. 89–358, § 2, Mar. 3, 1966, 80 Stat. 15; and former section 1722, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1196, prior to repeal by sections 401(6) and 402(2) of Pub. L. 92–540, respectively.

AMENDMENTS

1992—Subsec. (d). Pub. L. 102–568 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''As used in this section the term 'change of program of education' shall not be deemed to include a change from the pursuit of one program to pursuit of another where the first program is prerequisite to, or generally required for, entrance into pursuit of the second.''

1991—Pub. L. 102–83 renumbered section 1791 of this title as this section.

1990—Subsec. (b). Pub. L. 101–366 substituted ''The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section'' for ''The Secretary may approve one additional change''.

1989—Subsecs. (b), (c). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1976—Subsec. (a). Pub. L. 94–502 substituted ''the veteran's or person's'' for ''his'' in three places.

Subsec. (b). Pub. L. 94–502 substituted ''if the Administrator finds'' for ''if he finds'' and ''the veteran's or person's'' for ''his'' wherever appearing.

Subsec. (c). Pub. L. 94–502 substituted ''if the Administrator finds'' for ''if he finds''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 208(b) of Pub. L. 101–366 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on June 1, 1991.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3692. Advisory committee

(a) There shall be a Veterans' Advisory Committee on Education formed by the Secretary which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 30, 32, or 35 of this title and chapter 1606 of title 10. The committee shall also, to the maximum extent practicable, include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, the post-Vietnam era, and the Persian Gulf War. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment and Training shall be ex officio members of the advisory committee.

(b) The Secretary shall consult with and seek the advice of the committee from time to time with respect to the administration of this chap-

ter, chapters 30, 32, and 35 of this title, and chapter 1606 of title 10. The committee may make such reports and recommendations as it considers desirable to the Secretary and the Congress.

(c) The committee shall remain in existence until December 31, 2009.

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23, § 1788; renumbered § 1792 and amended Pub. L. 92–540, title III, § 316(2), (3), Oct. 24, 1972, 86 Stat. 1086, 1089; Pub. L. 96–466, title III, § 346, Oct. 17, 1980, 94 Stat. 2200; Pub. L. 99–576, title III, § 304, Oct. 28, 1986, 100 Stat. 3269; Pub. L. 100–689, title I, § 123, Nov. 18, 1988, 102 Stat. 4174; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–25, title III, § 338, Apr. 6, 1991, 105 Stat. 91; Pub. L. 102–54, § 14(c)(7), June 13, 1991, 105 Stat. 285; renumbered § 3692, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–210, § 2(d), Dec. 20, 1993, 107 Stat. 2497; Pub. L. 103–446, title VI, § 608, Nov. 2, 1994, 108 Stat. 4672; Pub. L. 108–183, title III, § 307, Dec. 16, 2003, 117 Stat. 2661.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1190, which was classified to former section 1662 of this title, prior to repeal by section 4(a) of Pub. L. 89–358.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, § 307(a), (c)(1), substituted ''chapter 1606'' for ''chapter 106'' in first sentence and inserted '', to the maximum extent practicable,'' after ''The committee shall also'' in second sentence.

Subsec. (b). Pub. L. 108–183, § 307(c), substituted ''chapters 30'' for ''chapter 30'' and ''chapter 1606'' for ''chapter 106''.

Subsec. (c). Pub. L. 108–183, § 307(b), substituted ''December 31, 2009'' for ''December 31, 2003''.

1994—Subsec. (a). Pub. L. 103–446, § 608(1), struck out ''34,'' after ''chapter 30, 32,'' and inserted ''and chapter 106 of title 10'' after ''of this title''.

Subsec. (b). Pub. L. 103–446, § 608(2), substituted ''this chapter, chapter 30, 32, and 35 of this title, and chapter 106 of title 10'' for ''this chapter and chapters 30, 32, 34, and 35 of this title''.

Subsec. (c). Pub. L. 103–446, § 608(3), substituted ''December 31, 2003'' for ''December 31, 1994''.

1993—Subsec. (c). Pub. L. 103–210 substituted ''1994'' for ''1993''.

1991—Pub. L. 102–83 renumbered section 1792 of this title as this section.

Subsec. (a). Pub. L. 102–54 inserted ''and Training'' after ''Employment''.

Pub. L. 102–25 substituted ''the post-Vietnam era, and the Persian Gulf War'' for ''and the post-Vietnam era''.

1989—Subsecs. (a), (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (c). Pub. L. 100–689 substituted ''1993'' for ''1989''.

1986—Subsec. (a). Pub. L. 99–576, § 304(1), substituted ''a Veterans' Advisory Committee on Education'' for ''an advisory committee'', and inserted reference to chapter 30.

Subsec. (b). Pub. L. 99–576, § 304(2), inserted reference to chapter 30.

1980—Pub. L. 96–466 designated existing provisions as subsecs. (a) and (b), substituted reference to furnishing education to eligible veterans or persons enrolled under chapter 32, 34, or 35 of this title for reference to furnishing vocational rehabilitation under chapter 31 of this title or education to eligible persons or veterans enrolled under chapter 34 or 35 of this title, reference to the Assistant Secretary of Education for Postsecondary Education or other comparable official and the Assistant Secretary of Labor for Veterans' Employment, for reference to the Commissioner of Education and the Administrator, Manpower Administration, Department of Labor, and reference to seeking the advice of the committee with respect to the administration of this chapter and chapters 32, 34, and 35 of this title for reference to advising the committee with respect to the administration of this chapter and chapters 31, 34, and 35 of this title, and inserted provision that the committee include veterans representative of the post-Vietnam era, and added subsec. (c).

1972—Pub. L. 92–540, § 316(3), inserted provisions that the Committee also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era and the Vietnam era.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96–466, set out as a note under section 3452 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

COMMISSION TO ASSESS VETERANS' EDUCATION POLICY

Section 320 of Pub. L. 99–576, as amended by Pub. L. 100–323, § 14, May 20, 1988, 102 Stat. 574, provided for establishment of a Commission on Veterans' Education Policy, provided for appointment of members of Commission not later than Mar. 1, 1987, directed Commission to submit a report, not later than 18 months after at least 8 members had been appointed, to Committees on Veterans' Affairs of Senate and House of Representatives, containing the Commission's findings and recommendations on various matters relating to veterans' education, directed Administrator of Veterans Affairs to file interim and final reports, not later than 2 years after Commission's report, to those Committees responding to Commission's report, and provided for termination of Commission 90 days after Administrator submitted final report.

STUDY OF EDUCATIONAL ASSISTANCE PROGRAMS FOR VETERANS, SURVIVORS, AND DEPENDENTS; SUBMISSION TO CONGRESS AND PRESIDENT BY SEPTEMBER 30, 1979

Pub. L. 95–202, title III, § 304(b), Nov. 23, 1977, 91 Stat. 1442, directed Administrator of Veterans' Affairs, in consultation with Advisory Committee formed pursuant to this section, to conduct a study respecting operation of programs of educational assistance carried out under this chapter and chapter 34 of this title and that a report concerning such study be submitted to Congress not later than Sept. 30, 1979.

STUDY OF OPERATION OF POST-KOREAN CONFLICT PROGRAMS OF EDUCATIONAL ASSISTANCE

Section 413 of Pub. L. 92–540 provided for a comparative study of operation of post-Korean conflict program of educational assistance with similar prior programs available to veterans of World War II and Korean conflict, the results of such study and recommendations for improvement to be transmitted to President and Congress within six months of Oct. 24, 1972.

§ 3693. Compliance surveys

(a) Except as provided in subsection (b) of this section, the Secretary shall conduct an annual

compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Secretary shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

(b) The Secretary may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Secretary determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.

(Added Pub. L. 94–502, title V, § 511(1), Oct. 15, 1976, 90 Stat. 2401, § 1793; amended Pub. L. 100–322, title III, § 322, May 20, 1988, 102 Stat. 535; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3693, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1793 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Pub. L. 100–322 amended section generally. Prior to amendment, section read as follows: ''The Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons where at least 300 veterans or persons are enrolled under provisions of this title or where the course does not lead to a standard college degree. Such compliance survey shall assure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.''

EFFECTIVE DATE

Section 703 of Pub. L. 94–502 provided that:

''(a) Sections 101, 201, 203, 207, 209, 301, 303, 304, 308, 501, 502, 503, and 508 [see Tables for classification] of this Act shall become effective on October 1, 1976.

''(b) Sections 102, 104, 202, 204, 205(1), 205(2), 205(3), 208, 210, 211, 302, 305, 306, 309, 310, 506, 510, 511, and 513 (other than paragraphs (7), (8), (9), and (10) of subsection (a)) [see Tables for classification] of this Act shall become effective on the date of enactment of this Act [Oct. 15, 1976].

''(c) Sections 103, 205(4), 206, 307, 504, 505, 507, 509, 512, and 701 and title VI of this Act [see Tables for classification] shall become effective on December 1, 1976.''

§ 3694. Use of other Federal agencies

(a) IN GENERAL.—In carrying out the Secretary's functions under this chapter or chapter 34 or 35 of this title, the Secretary may utilize the facilities and services of any other Federal department or agency. Any such utilization shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be provided in such agreement.

(b) COORDINATION OF INFORMATION AMONG THE DEPARTMENTS OF VETERANS AFFAIRS, DEFENSE, AND LABOR WITH RESPECT TO ON-JOB TRAINING.—At the time of a servicemember's discharge or release from active duty service, the Secretary of Defense shall furnish to the Secretary such pertinent information concerning each registered apprenticeship pursued by the servicemember during the period of active duty service of the servicemember. The Secretary, in conjunction with the Secretary of Labor, shall encourage and assist States and private organizations to give credit to servicemembers for the registered apprenticeship program so pursued in the case of any related apprenticeship program the servicemember may pursue as a civilian.

(Added Pub. L. 89–358, § 3(b), Mar. 3, 1966, 80 Stat. 23, § 1790; renumbered § 1794, Pub. L. 92–540, title III, § 316(2), Oct. 24, 1972, 86 Stat. 1086; amended Pub. L. 94–502, title V, § 513(a)(21), Oct. 15, 1976, 90 Stat. 2403; Pub. L. 101–237, title IV, § 423(b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3694, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 108–454, title I, § 107, Dec. 10, 2004, 118 Stat. 3603.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1183, 1201, which was classified to former sections 1644 and 1761(c) of this title, prior to repeal and amendment by sections 4(a) and 3(a)(1) of Pub. L. 89–358, respectively.

AMENDMENTS

2004—Pub. L. 108–454 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1991—Pub. L. 102–83 renumbered section 1794 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary's'' and ''Secretary'' for ''Administrator's'' and ''Administrator'', respectively.

1976—Pub. L. 94–502 substituted ''the Administrator's'' for ''his''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Oct. 15, 1976, see section 703(b) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

§ 3695. Limitation on period of assistance under two or more programs

(a) The aggregate period for which any person may receive assistance under two or more of the provisions of law listed below may not exceed 48 months (or the part-time equivalent thereof):

(1) Parts VII or VIII, Veterans Regulation numbered 1(a), as amended.

(2) Title II of the Veterans' Readjustment Assistance Act of 1952.

(3) The War Orphans' Educational Assistance Act of 1956.

(4) Chapters 30, 32, 34, 35, and 36 of this title, and the former chapter 33.

(5) Chapters 107, 1606, 1607, and 1611 of title 10.

(6) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96–342, 10 U.S.C. 2141 note).

(7) The Hostage Relief Act of 1980 (Public Law 96–449, 5 U.S.C. 5561 note).

(8) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99–399).

(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in subsection (a) of this section in excess of 48 months (or the part-time equivalent thereof) unless the Secretary determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 3101(5) of this title) in the individual case.

(Added Pub. L. 90–631, § 1(d)(1), Oct. 23, 1968, 82 Stat. 1331, § 1791; renumbered § 1795 and amended Pub. L. 92–540, title III, § 316(2), title IV, § 403(13), Oct. 24, 1972, 86 Stat. 1086, 1090; Pub. L. 96–466, title I, § 103, Oct. 17, 1980, 94 Stat. 2187; Pub. L. 98–223, title II, § 203(c)(2), Mar. 2, 1984, 98 Stat. 41; Pub. L. 98–525, title VII, § 703(d), Oct. 19, 1984, 98 Stat. 2564; Pub. L. 101–237, title IV, § 423(a)(8)(B), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3695 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 106–65, div. A, title V, § 551(b), Oct. 5, 1999, 113 Stat. 614; Pub. L. 107–103, title V, § 509(d), Dec. 27, 2001, 115 Stat. 997; Pub. L. 107–107, div. A, title X, § 1048(i)(8), Dec. 28, 2001, 115 Stat. 1229; Pub. L. 108–375, div. A, title V, § 527(b)(2), Oct. 28, 2004, 118 Stat. 1894.)

REFERENCES IN TEXT

Parts VII and VIII, Veterans Regulation numbered 1(a), referred to in subsec. (a)(1), are Parts VII and VIII as added by acts Mar. 24, 1943, ch. 22, § 2, 57 Stat. 43 and June 22, 1944, ch. 268, title II, § 400(b), 58 Stat. 287 to Veterans Regulation numbered 1(a) promulgated by Ex. Ord. No. 6156, June 6, 1933, which had been classified as parts VII and VIII of chapter 12A of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which were repealed by Pub. L. 85–857, § 14(67), Sept. 2, 1958, 72 Stat. 1272.

The Veterans' Readjustment Assistance Act of 1952, referred to in subsec. (a)(2), is act July 16, 1952, ch. 875, 66 Stat. 663, as amended. Title II of the Veterans' Readjustment Assistance Act of 1952 was classified generally to subchapter II (§ 911 et seq.) of chapter 14 of former Title 38, which was repealed and the provisions thereof reenacted as chapter 33 (§ 1601 et seq.) of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105. Chapter 33 of this title was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23. See chapter 32 (§ 3201 et seq.) of this title.

The War Orphans' Educational Assistance Act of 1956, referred to in subsec. (a)(3), is act June 29, 1956, ch. 476, 70 Stat. 411, as amended, which was classified generally to chapter 15 (§ 1031 et seq.) of former Title 38, which was repealed and the provisions thereof reenacted as chapter 35 of this title by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

Former chapter 33, referred to in subsec. (a)(4), is former chapter 33 (§ 1601 et seq.) of this title enacted by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1174, which was repealed by Pub. L. 89–358, § 4(a), Mar. 3, 1966, 80 Stat. 23.

Section 903 of the Department of Defense Authorization Act, 1981, referred to in subsec. (a)(6), is section 903 of Pub. L. 96–342, title IX, Sept. 8, 1980, 94 Stat. 1115, which is set out as a note under section 2141 of Title 10, Armed Forces.

The Hostage Relief Act of 1980, referred to in subsec. (a)(7), 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.

The Omnibus Diplomatic Security and Antiterrorism Act of 1986, referred to in subsec. (a)(8), is Pub. L. 99–399, Aug. 27, 1986, 100 Stat. 853, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 22, Foreign Relations and Intercourse, and Tables.

AMENDMENTS

2004—Subsec. (a)(5). Pub. L. 108–375 inserted ''1607,'' after ''1606,''.

2001—Subsec. (a)(5). Pub. L. 107–103 and Pub. L. 107–107 amended par. (5) identically, substituting ''1611'' for ''1610''.

1999—Subsec. (a)(5). Pub. L. 106–65 substituted ''Chapters 107, 1606, and 1610'' for ''Chapters 106 and 107''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1795 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3101(5)'' for ''1501(5)''.

1989—Subsec. (a)(8). Pub. L. 101–237, § 423(a)(8)(B), added par. (8).

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

1984—Subsec. (a). Pub. L. 98–525 inserted reference in cl. (4) to chapter 30 of this title, and in cl. (5) to chapter 106 of title 10.

Pub. L. 98–223, § 203(c)(2)(A), substituted ''48 months'' for ''forty-eight months'', capitalized the first word in cls. (1) to (4), and added cls. (5) to (7).

Subsec. (b). Pub. L. 98–223, § 203(c)(2)(B), substituted ''subsection (a)'' for ''clauses (1), (2), (3), and (4)'' and ''48'' for ''forty-eight''.

1980—Pub. L. 96–466 designated existing provisions as subsec. (a), substituted in par. (4) ''chapters 32, 34, 35, and 36 of this title and the former chapter 33;'' for ''chapters 31, 34, 35, and 36 of this title, and the former chapter 33'', in provisions following par. (4) struck out '', but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone'' after ''(or the part-time equivalent thereof)'', and added subsec. (b).

1972—Pub. L. 92–540, § 403(13), inserted reference to chapter 36 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(a)(6) of Pub. L. 96–466, set out as a note under section 3681 of this title.

EFFECTIVE DATE

Section effective first day of second calendar month which begins after Oct. 23, 1968, see section 6(a) of Pub. L. 90–631, set out as a note under section 3500 of this title.

§ 3696. Limitation on certain advertising, sales, and enrollment practices

(a) The Secretary shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation.

(b) To ensure compliance with this section, any institution offering courses approved for the enrollment of eligible persons or veterans shall maintain a complete record of all advertising, sales, or enrollment materials (and copies thereof) utilized by or on behalf of the institution during the preceding 12-month period. Such record shall be available for inspection by the State approving agency or the Secretary. Such materials shall include but are not limited to any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print

media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution.

(c) The Secretary shall, pursuant to section 3694 of this title, enter into an agreement with the Federal Trade Commission to utilize, where appropriate, its services and facilities, consistent with its available resources, in carrying out investigations and making the Secretary's determinations under subsection (a) of this section. Such agreement shall provide that cases arising under subsection (a) of this section or any similar matters with respect to any of the requirements of this chapter or chapters 34 and 35 of this title shall be referred to the Federal Trade Commission which in its discretion will conduct an investigation and make preliminary findings. The findings and results of any such investigations shall be referred to the Secretary who shall take appropriate action in such cases within ninety days after such referral.

(Added Pub. L. 93–508, title II, § 212(a), Dec. 3, 1974, 88 Stat. 1585, § 1796; amended Pub. L. 94–502, title V, §§ 512, 513(a)(22), Oct. 15, 1976, 90 Stat. 2402, 2403; Pub. L. 98–543, title IV, § 401, Oct. 24, 1984, 98 Stat. 2749; Pub. L. 101–237, title IV, § 423(b)(1)(A), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3696 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 1796 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3694'' for ''1794''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing and ''Secretary's'' for ''Administrator's'' in subsec. (c).

1984—Subsec. (d). Pub. L. 98–543 struck out subsec. (d) which provided that not later than 60 days after the end of each fiscal year the Administrator would be required to report to Congress regarding the disposition of cases under this section.

1976—Subsec. (b). Pub. L. 94–502, § 512, added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 94–502, §§ 512(1), 513(a)(22), redesignated former subsec. (b) as (c) and substituted ''making the Administrator's determinations'' for ''making his determinations''. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94–502, § 512(1), redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 512 and 513(a)(22) of Pub. L. 94–502 effective Dec. 1, 1976, and Oct. 15, 1976, respectively, see section 703(b), (c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as an Effective Date of 1974 Amendment note under section 3452 of this title.

§ 3697. Funding of contract educational and vocational counseling

(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Department of Veterans Affairs by contract and provided to an individual under section 3697A of this title or to an individual applying for or receiving benefits under section 1524 or chapter 30, 32, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Department of Veterans Affairs for payment of readjustment benefits.

(b) Payments under this section shall not exceed $6,000,000 in any fiscal year.

(Added Pub. L. 100–687, div. B, title XIII, § 1302(a), Nov. 18, 1988, 102 Stat. 4127, § 1797; amended Pub. L. 101–237, title IV, § 423(b)(1)(B), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–16, § 2(b)(3), Mar. 22, 1991, 105 Stat. 49; renumbered § 3697 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VI, § 609(a), Nov. 2, 1994, 108 Stat. 4673.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–446 substituted ''$6,000,000'' for ''$5,000,000''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1797 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3697A'' for ''1797A'' and ''1524'' for ''524''.

Pub. L. 102–16 inserted ''under section 1797A of this title or to an individual'' after ''individual''.

1989—Subsec. (a). Pub. L. 101–237 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'' wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 609(b) of Pub. L. 103–446 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1994.''

§ 3697A. Educational and vocational counseling

(a) The Secretary shall make available to an individual described in subsection (b) of this section, upon such individual's request, counseling services, including such educational and vocational counseling and guidance, testing, and other assistance as the Secretary determines necessary to aid the individual in selecting—

(1) an educational or training objective and an educational institution or training establishment appropriate for the attainment of such objective; or

(2) an employment objective that would be likely to provide such individual with satisfactory employment opportunities in the light of the individual's personal circumstances.

(b) For the purposes of this section, the term ''individual'' means an individual who—

(1) is eligible for educational assistance under chapter 30, 31, or 32 of this title or chapter 106 or 107 of title 10;

(2) was discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of such last discharge or release from active duty; or

(3) is serving on active duty in any State with the Armed Forces and is within 180 days of the estimated date of such individual's discharge or release from active duty under conditions other than dishonorable, including those who are making a determination of whether to continue as members of the Armed Forces.

(c) In any case in which the Secretary has rated the individual as being incompetent, the counseling services described in subsection (a) of

this section shall be required to be provided to the individual before the selection of a program of education or training.

(d) At such intervals as the Secretary determines necessary, the Secretary shall make available information concerning the need for general education and for trained personnel in the various crafts, trades, and professions. Facilities of other Federal agencies collecting such information shall be utilized to the extent the Secretary determines practicable.

(e) The Secretary shall take appropriate steps (including individual notification where feasible) to acquaint all individuals described in subsection (b) of this section with the availability and advantages of counseling services under this section.

(Added Pub. L. 102–16, § 2(a), Mar. 22, 1991, 105 Stat. 48, § 1797A; renumbered § 3697A, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1797A of this title as this section.

[SUBCHAPTER III—REPEALED]

[§§ 3698, 3699. Repealed. Pub. L. 108–183, title III, § 306(e), Dec. 16, 2003, 117 Stat. 2661]

Section 3698, added Pub. L. 93–508, title III, § 301(a), Dec. 3, 1974, 88 Stat. 1589, § 1798; amended Pub. L. 94–502, title V, §§ 502(a), 513(a)(23), Oct. 15, 1976, 90 Stat. 2399, 2403; Pub. L. 95–202, title I, § 104(3), title II, § 202, Nov. 23, 1977, 91 Stat. 1435, 1438; Pub. L. 95–476, title II, § 201, Oct. 18, 1978, 92 Stat. 1502; Pub. L. 96–466, title II, §§ 203(4), 213(4), title VI, §§ 601(h), 603(b), title VIII, § 801(g), Oct. 17, 1980, 94 Stat. 2189, 2191, 2208, 2209, 2216; Pub. L. 97–35, title XX, § 2005(d), Aug. 13, 1981, 95 Stat. 783; Pub. L. 97–295, § 4(60), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97–306, title II, § 208, Oct. 14, 1982, 96 Stat. 1436; Pub. L. 98–543, title II, § 204(3), Oct. 24, 1984, 98 Stat. 2742; Pub. L. 100–689, title I, § 124(b), Nov. 18, 1988, 102 Stat. 4174; Pub. L. 101–237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–16, § 5(a), Mar. 22, 1991, 105 Stat. 50; renumbered § 3698 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to eligibility for loans under this subchapter.

Section 3699, added Pub. L. 93–508, title III, § 301(a), Dec. 3, 1974, 88 Stat. 1591, § 1799; amended Pub. L. 94–502, title V, § 513(a)(24), Oct. 15, 1976, 90 Stat. 2404; Pub. L. 97–295, § 4(61), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 101–237, title IV, § 423(b)(1), (2), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3699 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to revolving fund available for making of loans under this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Dec. 16, 2003, see section 306(h)(2) of Pub. L. 108–183, set out as an Effective Date of 2003 Amendment note under section 3485 of this title.

REPEAL OF PROVISIONS RELATING TO OBSOLETE EDUCATION LOAN PROGRAM

Pub. L. 108–183, title III, § 306(a)–(c), Dec. 16, 2003, 117 Stat. 2661, provided that:

''(a) TERMINATION OF PROGRAM.—The Secretary of Veterans Affairs may not make a loan under subchapter III of chapter 36 of title 38, United States Code, after the date of the enactment of this Act [Dec. 16, 2003].

''(b) DISCHARGE OF LIABILITIES.—Effective as of the date of the transfer of funds under subsection (c)—

''(1) any liability on an education loan under subchapter III of chapter 36 of title 38, United States Code, that is outstanding as of such date shall be deemed discharged; and

''(2) the right of the United States to recover an overpayment declared under section 3698(e)(1) of such title that is outstanding as of such date shall be deemed waived.

''(c) TERMINATION OF LOAN FUND.—(1) Effective as of the day before the date of the repeal under this section of subchapter III of chapter 36 of title 38, United States Code [see Effective Date of Repeal note above], all monies in the revolving fund of the Treasury known as the 'Department of Veterans Affairs Education Loan Fund' shall be transferred to the Department of Veterans Affairs Readjustment Benefits Account, and the revolving fund shall be closed.

''(2) Any monies transferred to the Department of Veterans Affairs Readjustment Benefits Account under paragraph (1) shall be merged with amounts in that account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in that account.''

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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[3771 to 3775. Repealed or renumbered.]

AMENDMENTS

2002—Pub. L. 107–330, title III, § 303(b), Dec. 6, 2002, 116 Stat. 2826, added item 3707A.

2001—Pub. L. 107–95, § 5(g)(2), Dec. 21, 2001, 115 Stat. 918, struck out item 3735 ''Housing assistance for homeless veterans'', item for subchapter VI ''LOAN GUARANTEE FOR MULTIFAMILY TRANSITIONAL HOUSING FOR HOMELESS VETERANS'', and items 3771 ''Definitions'', 3772 ''General authority'', 3773 ''Requirements'', 3774 ''Default'', and 3775 ''Audit''.

1998—Pub. L. 105–368, title VI, §§ 601(b), 602(e)(3)(C), Nov. 11, 1998, 112 Stat. 3345, 3347, added item 3722, struck out items 3723 ''Direct loan revolving fund'', 3724 ''Loan Guaranty Revolving Fund'', and 3725 ''Guaranty and Indemnity Fund'', substituted ''Veterans Housing Benefit Program Fund and housing programs'' for ''Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund'' in item 3734, substituted ''Native American Veteran Housing Loan Program Account'' for ''Housing loan program account'' in item 3763, and added item for subchapter VI and items 3771 to 3775.

1996—Pub. L. 104–110, title II, § 201(a)(2), Feb. 13, 1996, 110 Stat. 770, added item 3736.

Pub. L. 104–106, div. B, title XXVIII, § 2822(b)(2), Feb. 10, 1996, 110 Stat. 557, added item 3708.

1992—Pub. L. 102–547, §§ 3(a)(2), 8(c), Oct. 28, 1992, 106 Stat. 3635, 3640, added item 3707, item for subchapter V, and items 3761 to 3764.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1801 to 1851 as 3701 to 3751, respectively.

Pub. L. 102–54, § 9(b), June 13, 1991, 105 Stat. 273, added item 1835.

1989—Pub. L. 101–237, title III, §§ 302(a)(3)(B), (b)(2), 313(b)(1), Dec. 18, 1989, 103 Stat. 2070, 2071, 2077, substituted ''Secretary'' for ''Administrator'' in items 1820, 1844, and 1850, ''Loan Guaranty Revolving Fund'' for ''Loan guaranty revolving fund'' in item 1824, and ''Guaranty and Indemnity Fund'' for ''Waiver of discharge requirements for hospitalized persons'' in item 1825, and added item 1834.

1988—Pub. L. 100–322, title IV, § 415(e), May 20, 1988, 102 Stat. 552, in item 1803 substituted ''guaranty and insurance'' for ''guaranty'', struck out item 1807 ''Service after July 25, 1947, and prior to June 27, 1950'', reenacted items 1810 and 1811 without change, redesignated item 1819 ''Loans to purchase manufactured homes and lots'' as item 1812, item 1817 ''Release from liability under guaranty'' as item 1813, and item 1817A ''Assumptions; release from liability'' as item 1814, struck out item 1815 ''Insurance of loans'' and item 1818 ''Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975'', redesignated item 1816 ''Procedure on default'' as item 1832, struck out former item 1832 ''Furnishing information to real estate professionals to facilitate the disposition of properties'', and added item 1833.

1987—Pub. L. 100–198, § 10(a)(3), Dec. 21, 1987, 101 Stat. 1323, added item 1817A.

1986—Pub. L. 99–576, title IV, §§ 407(b), 408(b), Oct. 28, 1986, 100 Stat. 3283, added items 1831 and 1832.

1984—Pub. L. 98–369, div. B, title V, § 2512(b)(2), July 18, 1984, 98 Stat. 1120, added item 1830.

1982—Pub. L. 97–306, title IV, § 406(c)(3), Oct. 14, 1982, 96 Stat. 1445, substituted ''Loans to purchase manufactured homes and lots'' for ''Loans to purchase mobile homes and mobile home lots'' in item 1819.

Pub. L. 97–253, title IV, § 406(a)(2), Sept. 8, 1982, 96 Stat. 805, added item 1829.

1981—Pub. L. 97–72, title III, § 302(b)(1), (3), Nov. 3, 1981, 95 Stat. 1059, substituted ''HOUSING AND SMALL BUSINESS LOANS'' for ''HOME, CONDOMINIUM, AND MOBILE HOME LOANS'' in chapter heading and, in analysis of subchapters and sections, added item for subchapter IV and for sections 1841 to 1851.

1979—Pub. L. 96–128, title IV, § 401(b), Nov. 28, 1979, 93 Stat. 987, added item 1828.

1978—Pub. L. 95–476, title I, § 106(b), Oct. 18, 1978, 92 Stat. 1500, substituted ''Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975'' for ''Veterans who serve after January 31, 1955'' in item 1818.

1976—Pub. L. 94–324, § 2(b), June 30, 1976, 90 Stat. 720, added item 1807.

1974—Pub. L. 93–569, §§ 7(b), (c), Dec. 31, 1974, 88 Stat. 1866, substituted ''HOME, CONDOMINIUM, AND MOBILE HOME LOANS'' for ''HOME, FARM, AND BUSINESS LOANS'' in chapter heading, and struck out items 1812 ''Purchase of farms and farm equipment'', 1813 ''Purchase of business property'', 1814 ''Loans to refinance delinquent indebtedness'', and 1822 ''Recovery of damages'', from chapter analysis.

1970—Pub. L. 91–506, § 7, Oct. 23, 1970, 84 Stat. 1114, added item 1819.

1968—Pub. L. 90–301, § 5(b), May 7, 1968, 82 Stat. 116, added item 1827.

1966—Pub. L. 89–358, § 5(b), (f)(2), Mar. 3, 1966, 80 Stat. 26, 27, added items 1818 and 1826.

1960—Pub. L. 86–665, §§ 6(b), 7(b), July 14, 1960, 74 Stat. 532, 533, added items 1806 and 1824 and renumbered former item 1824 as 1825.

MAXIMUM INTEREST RATES FOR MORTGAGE INSURANCE PROGRAM

Consultation of Secretary of Housing and Urban Development with Administrator of Veterans' Affairs regarding interest rate considered necessary to meet mortgage market for guaranteed or insured home loans to veterans under this chapter, in determining rate for mortgage insurance program under section 1709(b)(5) of Title 12, see section 1709–1 of Title 12, Banks and Banking.

STATE CONSTITUTIONAL AND LEGAL LIMITS UPON INTEREST CHARGEABLE ON LOAN OR MORTGAGE

Any loan or mortgage secured by a one- to four-family dwelling and insured, guaranteed, or made under this chapter not to be covered by any State constitutional and legal limit upon amount of interest charged, taken, etc., see section 1709–1a of Title 12, Banks and Banking.

SUBCHAPTER I—GENERAL

§ 3701. Definitions

(a) For the purpose of this chapter, the term ''housing loan'' means a loan for any of the purposes specified by sections 3710(a) and 3712(a)(1) of this title.

(b) For the purposes of housing loans under this chapter—

(1) The term ''World War II'' (A) means the period beginning on September 16, 1940, and ending on July 25, 1947, and (B) includes, in the case of any veteran who enlisted or reenlisted in a Regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, the period of the first such enlistment or reenlistment.

(2) The term ''veteran'' includes the surviving spouse of any veteran (including a person who died in the active military, naval, or air

service) who died from a service-connected disability, but only if such surviving spouse is not eligible for benefits under this chapter on the basis of the spouse's own active duty. The active duty or service in the Selected Reserve of the deceased spouse shall be deemed to have been active duty or service in the Selected Reserve by such surviving spouse for the purposes of this chapter.

(3) The term ''veteran'' also includes, for purposes of home loans, the spouse of any member of the Armed Forces serving on active duty who is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power. The active duty of the member shall be deemed to have been active duty by such spouse for the purposes of this chapter. The loan eligibility of such spouse under this paragraph shall be limited to one loan guaranteed or made for the acquisition of a home, and entitlement to such loan shall terminate automatically, if not used, upon receipt by such spouse of official notice that the member is no longer listed in one of the categories specified in the first sentence of this paragraph.

(4) The term ''veteran'' also includes an individual serving on active duty.

(5)(A) The term ''veteran'' also includes an individual who is not otherwise eligible for the benefits of this chapter and (i) who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve, or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.

(B) The term ''Selected Reserve'' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 10143(a) of title 10.

(c) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the National Oceanic and Atmospheric Administration (or predecessor entity), or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title III of the Servicemen's Readjustment Act of 1944.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1203, § 1801; Pub. L. 91–584, § 5(a), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 94–324, § 7(1), (2), June 30, 1976, 90 Stat. 721; Pub. L. 97–72, title III, § 303(a), Nov. 3, 1981, 95 Stat. 1059; Pub. L. 97–295, § 4(62), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100–322, title IV, § 415(c)(1), May 20, 1988, 102 Stat. 551; Pub. L. 101–237, title III, § 313(a), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3701 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 2(a)(1), Oct. 28, 1992, 106 Stat. 3633; Pub. L. 103–446, title IX, § 901, Nov. 2, 1994, 108 Stat. 4675; Pub. L. 104–106, div. A, title XV, § 1501(e)(2)(B), Feb. 10, 1996, 110 Stat. 501.)

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (§ 694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed and the provisions thereof reenacted as this chapter by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1996—Subsec. (b)(5)(B). Pub. L. 104–106 substituted ''section 10143(a) of title 10'' for ''section 268(b) of title 10''.

1994—Subsec. (b)(2). Pub. L. 103–446, § 901(b), inserted ''or service in the Selected Reserve'' after ''duty'' in two places and substituted ''deceased spouse shall'' for ''spouse shall''.

Subsec. (b)(5)(A). Pub. L. 103–446, § 901(a), inserted ''(i)'' before ''who has'' and substituted '', or'' and cl. (ii) for the period at end.

1992—Subsec. (b)(5). Pub. L. 102–547 added par. (5).

1991—Pub. L. 102–83, § 5(a), renumbered section 1801 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a) and 3712(a)(1)'' for ''1810(a) and 1812(a)(1)''.

1989—Subsec. (b)(4). Pub. L. 101–237 added par. (4).

1988—Subsec. (a). Pub. L. 100–322 substituted ''1812(a)(1)'' for ''1819(a)(1)''.

1982—Subsec. (b)(3). Pub. L. 97–295 substituted ''member shall be deemed'' for ''spouse shall be deemed'', and ''member is no longer listed'' for ''spouse is no longer listed''.

1981—Subsec. (a). Pub. L. 97–72, § 303(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 97–72, § 303(a)(1), (3), redesignated subsec. (a) as (b) and substituted ''For the purposes of housing loans under this chapter'' for ''For the purposes of this chapter''. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 97–72, § 303(a)(1), (4), redesignated subsec. (b) as (c) and substituted ''National Oceanic and Atmospheric Administration (or predecessor entity)'' for ''Coast and Geodetic Survey''.

1976—Subsec. (a)(2). Pub. L. 94–324, § 7(1), substituted ''surviving spouse'', ''the spouse's own'', and ''the spouse'' for ''widow'', ''her own'', and ''her husband'', respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 94–324, § 7(2), substituted ''spouse'' and ''the spouse'' for ''wife'' and ''her husband'', respectively, wherever appearing.

1970—Subsec. (a)(3). Pub. L. 91–584 added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97–72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 9 of Pub. L. 94–324 provided that:

''(a) Except as provided in subsection (b), the provisions of this Act [see Tables for classification] shall become effective on the date of enactment [June 30, 1976].

''(b) Sections 2 [enacting section 1807 of this title] and 3 [amending section 1811 [now 3711] of this title] shall become effective on October 1, 1976. Section 5 [amending section 1819 [now 3712] of this title] shall become effective on July 1, 1976.''

§ 3702. Basic entitlement

(a)(1) The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in paragraph (2) for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period (A) shall cancel any unused entitlement derived from service during any earlier such period, and (B) shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

(i) on real property which the veteran owns at the time of application; or

(ii) as to which the Secretary has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Secretary the resulting indebtedness of the veteran to the United States has been paid in full.

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War, other than a veteran ineligible for benefits under this title by reason of section 5303A(b) of this title.

(E) Each veteran described in section 3701(b)(5) of this title.

(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.

(4) A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 3701(b) of this title.

(b) In computing the aggregate amount of guaranty or insurance housing loan entitlement available to a veteran under this chapter, the Secretary may exclude the amount of guaranty or insurance housing loan entitlement used for any guaranteed, insured, or direct loan under the following circumstances:

(1)(A) The property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(B) the loan has been repaid in full, or the Secretary has been released from liability as to the loan, or if the Secretary has suffered a loss on such loan, the loss has been paid in full.

(2) A veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct loan, and the veteran-transferee otherwise meets the requirements of this chapter.

(3)(A) The loan has been repaid in full; and

(B) the loan for which the veteran seeks to use entitlement under this chapter is secured by the same property which secured the loan referred to in subparagraph (A) of this paragraph.

(4) In a case not covered by paragraph (1) or (2)—

(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.

The Secretary may, in any case involving circumstances the Secretary deems appropriate, waive one or more of the conditions prescribed in paragraph (1). The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).

(c) An honorable discharge shall be deemed to be a certificate of eligibility to apply for a guaranteed loan. Any veteran who does not have a discharge certificate, or who received a discharge other than honorable, may apply to the Secretary for a certificate of eligibility. Upon making a loan guaranteed or insured under this chapter, the lender shall forthwith transmit to the Secretary a report thereon in such detail as the Secretary may, from time to time, prescribe. Where the loan is guaranteed, the Secretary shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. The Secretary shall also endorse on the veteran's discharge, or eligibility certificate, the amount and type of guaranty used, and the amount, if any, remaining. Nothing in this chapter shall preclude the assignment of any guaranteed loan or the security therefor.

(d) Housing loans will be automatically guaranteed under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State, or (3) by any lender approved by the Secretary pursuant to standards established by the Secretary. Any housing loan proposed to be made to a veteran pursuant to this chapter by any lender not of a class specified in the preceding sentence may be guaranteed by the Secretary if the Secretary finds that it is in accord otherwise with the provisions of this chapter.

(e) The Secretary may at any time upon thirty days' notice require housing loans to be made by any lender or class of lenders to be submitted to the Secretary for prior approval. No guaranty or insurance liability shall exist with respect to any such loan unless evidence of guaranty or insurance is issued by the Secretary.

(f) Any housing loan at least 20 percent of which is guaranteed under this chapter may be made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company, organized or authorized to do business in the District of Columbia. Any such loan may be so made without regard to the limitations and restrictions of any other law relating to—

(1) ratio of amount of loan to the value of the property;

(2) maturity of loan;

(3) requirement for mortgage or other security;

(4) dignity of lien; or

(5) percentage of assets which may be invested in real estate loans.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1203, § 1802; Pub. L. 86–73, § 1, June 30, 1959, 73 Stat. 156; Pub. L. 87–84, § 1(b), July 6, 1961, 75 Stat. 201; Pub. L. 90–19, § 25(1), May 25, 1967, 81 Stat. 28; Pub. L. 90–77, title IV, § 403(a), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91–506, § 2(a), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 91–584, § 5(b), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 93–569, § 2(a), (b), Dec. 31, 1974, 88 Stat. 1863; Pub. L. 94–324, § 7(3)–(5), June 30, 1976, 90 Stat. 721; Pub. L. 95–476, title I, § 102, Oct. 18, 1978, 92 Stat. 1497; Pub. L. 97–72, title III, § 303(b), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97–295, § 4(61), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98–223, title II, § 204, Mar. 2, 1984, 98 Stat. 42; Pub. L. 100–322, title IV, § 415(a)(1), (2), May 20, 1988, 102 Stat. 549, 550; Pub. L. 101–237, title III, §§ 310, 313(b)(1), Dec. 18, 1989, 103 Stat. 2075, 2077; Pub. L. 102–25, title III, § 341, Apr. 6, 1991, 105 Stat. 92; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3702 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 2(a)(2), Oct. 28, 1992, 106 Stat. 3633; Pub. L. 103–446, title IX, § 902, title XII, § 1201(f)(4), Nov. 2, 1994, 108 Stat. 4676, 4687; Pub. L. 105–368, title VI, § 603(a), Nov. 11, 1998, 112 Stat. 3348; Pub. L. 106–117, title VII, § 711, Nov. 30, 1999, 113 Stat. 1584; Pub. L. 107–103, title IV, § 405(a), Dec. 27, 2001, 115 Stat. 993; Pub. L. 108–183, title IV, § 403, Dec. 16, 2003, 117 Stat. 2664.)

AMENDMENTS

2003—Subsec. (a)(2)(E). Pub. L. 108–183 substituted ''Each'' for ''For the period beginning on October 28, 1992, and ending on September 30, 2009, each''.

2001—Subsec. (a)(2)(E). Pub. L. 107–103 substituted ''September 30, 2009'' for ''September 30, 2007''.

1999—Subsec. (a)(2)(E). Pub. L. 106–117 substituted ''September 30, 2007'' for ''September 30, 2003''.

1998—Subsec. (a)(2)(E). Pub. L. 105–368 substituted ''September 30, 2003'' for ''October 27, 1999''.

1994—Subsec. (a)(2)(E). Pub. L. 103–446, § 1201(f)(4), substituted ''For the period beginning on October 28, 1992, and ending on October 27, 1999,'' for ''For the 7-year period beginning on the date of enactment of this subparagraph,''.

Subsec. (b). Pub. L. 103–446, § 902(1), (6), (7), in introductory provisions, substituted ''loan under the following circumstances:'' for ''loan, if—'', and in concluding provisions, substituted ''paragraph (1)'' for ''clause (1) of the preceding sentence'' and inserted at end ''The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).''

Subsec. (b)(1). Pub. L. 103–446, § 902(2), substituted ''The property'' for ''the property'' in subpar. (A) and a period for the semicolon at end of subpar. (B).

Subsec. (b)(2). Pub. L. 103–446, § 902(3), substituted ''A veteran-transferee'' for ''a veteran-transferee'' and a period for ''; or'' at end.

Subsec. (b)(3)(A). Pub. L. 103–446, § 902(4), substituted ''The loan'' for ''the loan''.

Subsec. (b)(4). Pub. L. 103–446, § 902(5), added par. (4).

1992—Subsec. (a)(2)(E). Pub. L. 102–547 added subpar. (E).

1991—Pub. L. 102–83, § 5(a), renumbered section 1802 of this title as this section.

Subsec. (a)(2)(D). Pub. L. 102–40 substituted ''5303A(b)'' for ''3103A(b)''.

Pub. L. 102–25 added subpar. (D).

Subsec. (a)(4). Pub. L. 102–83, § 5(c)(1), substituted ''3701(b)'' for ''1801(b)''.

1989—Subsecs. (a)(1)(ii), (b). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(3). Pub. L. 101–237, § 310, added par. (3).

Subsecs. (c) to (e). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (a)(1). Pub. L. 100–322, § 415(a)(1)(A)–(E), designated existing provisions as par. (1), substituted ''The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter'' for ''Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be eligible for the housing loan benefits of this chapter'', substituted ''in paragraph (2)'' for ''in the preceding sentence, or in section 1818 of this title,'' and redesignated former cls. (1) and (2) as cls. (A) and (B), respectively, and former cls. (A) and (B) as subcls. (i) and (ii), respectively.

Subsec. (a)(2), (3). Pub. L. 100–322, § 415(a)(1)(F), added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 100–322, § 415(a)(2), redesignated subsec. (g) as (a)(4) and substituted ''1801(b)'' for ''1801(a)''.

Subsec. (g). Pub. L. 100–322, § 415(a)(2)(B), redesignated subsec. (g) as (a)(4).

1984—Subsec. (b)(2). Pub. L. 98–223 substituted ''a'' for ''an immediate''.

1982—Subsec. (f). Pub. L. 97–295 substituted ''percent'' for ''per centum''.

1981—Subsec. (a). Pub. L. 97–72, § 303(b)(1), (2), substituted ''the housing loan benefits'' for ''the benefits''

in two places and ''insured housing loan'' for ''insured loan''.

Subsec. (b). Pub. L. 97–72, § 303(b)(3), substituted ''insurance housing loan entitlement'' for ''insurance entitlement'' in two places.

Subsec. (d). Pub. L. 97–72, § 303(b)(4), (5), substituted ''Housing loans will be automatically guaranteed'' for ''Loans will be automatically guaranteed'' and ''Any housing loan proposed'' for ''Any loan proposed''.

Subsec. (e). Pub. L. 97–72, § 303(b)(6), substituted ''require housing loans'' for ''require loans''.

Subsec. (f). Pub. L. 97–72, § 303(b)(7), substituted ''Any housing loan at least'' for ''Any loan at least''.

1978—Subsec. (a). Pub. L. 95–476, § 102(a), inserted provisions entitling Vietnam era veterans to the benefits of this chapter and including such veterans in the cancellation of unused entitlement derived from earlier service and the reduction of current entitlement provisions of this subsection.

Subsec. (b). Pub. L. 95–476, § 102(b), redesignated cl. (1) as (1)(A), cl. (2) as (B), cl. (3) as (2), and struck out reference to cl. (2) in provision authorizing the Administrator to waive certain conditions prescribed in this subsection.

1976—Subsec. (b). Pub. L. 94–324, § 7(3), substituted ''the Administrator deems'' for ''he deems'' and ''the veteran-transferee's entitlement'' for ''his entitlement''.

Subsec. (c). Pub. L. 94–324, § 7(4), substituted ''The Administrator'' for ''He''.

Subsec. (d). Pub. L. 94–324, § 7(4), substituted ''the Administrator'' for ''him'' and ''he''.

Subsec. (e). Pub. L. 94–324, § 7(5), substituted ''the Administrator'' for ''him'' in first sentence.

Subsec. (g). Pub. L. 94–324, § 7(5), substituted ''the veteran's spouse'' for ''his wife''.

1974—Subsec. (b). Pub. L. 93–569, § 2(a), expanded provisions so as to permit restoration of a veteran's entitlement to a guaranteed, insured, or direct loan provided any prior loan has been paid in full, and the property has been disposed of by the veteran, or any immediate veteran-transferee has agreed to the use of his veteran's entitlement.

Subsec. (d)(3). Pub. L. 93–569, § 2(b), substituted provisions relating to any lender approved by Administrator pursuant to standards established by him, for provisions relating to approval of mortgagees by Secretary of Housing and Urban Development and designated by him as certified agent.

1970—Subsec. (b). Pub. L. 91–506 struck out loan eligibility expiration dates for World War II and Korean conflict veterans.

Subsec. (g). Pub. L. 91–584 added subsec. (g).

1967—Subsec. (b). Pub. L. 90–77 extended loan program for certain World War II veterans from July 26, 1967 to July 26, 1970.

Subsec. (d). Pub. L. 90–19 substituted ''mortgagee approved by the Secretary of Housing and Urban Development and designated by him'' for ''Federal Housing Administration approved mortgagee designated by the Federal Housing Commissioner''.

1961—Subsec. (b). Pub. L. 87–84 substituted in last sentence ''by a World War II veteran at any time before July 26, 1967, and by a Korean conflict veteran at any time before February 1, 1975'' for ''at any time before February 1, 1965''.

1959—Subsec. (d)(3). Pub. L. 86–73 added cl. (3).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97–72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 108 of title I of Pub. L. 95–476 provided that: ''(a) Except as provided in subsection (b) of this section, the amendments made by this title [see Tables for classification] shall take effect on October 1, 1978.

''(b) The amendment made by clause (1) of section 104 of this title [amending section 1810 [now 3710] shall take effect on July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which shall be effective on the date of the enactment of this Act [Oct. 18, 1978].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10 of Pub. L. 93–569 provided that: ''The provisions of this Act [see Tables for classification] shall become effective on the date of enactment [Dec. 31, 1974] except that the amendments made by sections 2(a)(3) [amending section 1802 [now 3702] of this title] and 2(b) [amending section 1802 [now 3702] of this title] and section 3(2) [amending section 1810 [now 3710] of this title] and 3(4) [amending section 1810 [now 3710] of this title] shall become effective ninety days after such date of enactment [Dec. 31, 1974].''

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

ANNUAL REPORTS ON VETERANS RECEIVING GUARANTEED MORTGAGE LOANS AS RESULT OF AMENDMENTS BY PUB. L. 102–547

Section 2(c) of Pub. L. 102–547 directed Secretary of Veterans Affairs to transmit report on selected reserve veterans receiving guaranteed mortgage loans to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1994, and annually thereafter, prior to repeal by Pub. L. 104–110, title II, § 201(b), Feb. 13, 1996, 110 Stat. 770.

REFERENCES IN OTHER LAWS

Section 415(c)(7) of Pub. L. 100–322 provided that: ''Any reference, in effect on the date of the enactment of this Act [May 20, 1988], in any law, rule, or regulation to any of the sections, or parts thereof, which are redesignated or transferred by this section [sections 1802(a), (g), 1815, 1816(a) to (c), 1816(d) to (f), 1817, 1817A, 1819, and 1832 of this title were redesignated as sections 1802(a)(1), (4), 1803(a)(2), 1832(a) to (c), 1833(a) to (c), 1813, 1814, 1812, and 1833(d) [now 3702(a)(1), (4), 3703(a)(2), 3732(a) to (c), 3733(a) to (c), 3713, 3714, 3712, and 3733(d)], respectively, of this title] shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.''

TECHNICAL NATURE OF 1986 AMENDMENTS

Section 415(f) of Pub. L. 100–322 provided that: ''The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section [see Tables for classification].''

§ 3703. Basic provisions relating to loan guaranty and insurance

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than $45,000, 50 percent of the loan;

(II) in the case of any loan of more than $45,000, but not more than $56,250, $22,500;

(III) except as provided in subclause (IV) of this clause, in the case of any loan of more than $56,250, the lesser of $36,000 or 40 percent of the loan; or

(IV) in the case of any loan of more than $144,000 for a purpose specified in clause (1), (2), (3), (6), or (8) of section 3710(a) of this title, the lesser of the maximum guaranty amount (as defined in subparagraph (C)) or 25 percent of the loan; or

(ii) the maximum amount of guaranty entitlement available to the veteran as specified in subparagraph (B) of this paragraph.

(B) The maximum amount of guaranty entitlement available to a veteran for purposes specified in section 3710 of this title shall be $36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, the maximum guaranty amount (as defined in subparagraph (C)), reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 3702(b) of this title.

(C) In this paragraph, the term ''maximum guaranty amount'' means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.

(2)(A) Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Secretary under an agreement whereby the Secretary will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

(B) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Secretary may prescribe within the limitations set forth in this chapter.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Secretary issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Secretary of Housing and Urban Development regarding the rate of interest applicable to home loans insured under section 203(b) of the National Housing Act (12 U.S.C. 1709(b)). In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 3710(a) of this title, the Secretary may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Secretary may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Secretary before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5), (8), or (9)(B)(i) of section 3710(a) of this title or section 3712(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 3710(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Secretary determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 3710(a)(9)(B)(ii) or 3712(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

(i) agreed upon by the veteran and the mortgagee; or

(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

(d)(1) The maturity of any housing loan shall not be more than thirty years and thirty-two days.

(2)(A) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(B) The Secretary may guarantee loans with provisions for various rates of amortization corresponding to anticipated variations in family income. With respect to any loan guaranteed under this subparagraph—

(i) the initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made; and

(ii) the principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may not at any time be scheduled to exceed the projected value of the property.

(C) For the purposes of subparagraph (B) of this paragraph, the projected value of the property shall be calculated by the Secretary by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event may the projected value of the property for the purposes of such subparagraph exceed 115 percent of such reasonable value. A loan made for a purpose other than the acquisition of a single-family dwelling unit may not be guaranteed under such subparagraph.

(3) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan for the purchase or construction of a home is so secured, the Secretary may disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Secretary's determination must have been made prior to the recordation of the covenant.

(e)(1) Except as provided in paragraph (2) of this subsection, an individual who pays a fee under section 3729 of this title, or who is exempted under section 3729(c) of this title from paying such fee, with respect to a housing loan guaranteed or insured under this chapter that is closed after December 31, 1989, shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of such individual except in the case of fraud, misrepresentation, or bad faith by such individual in obtaining the loan or in connection with the loan default.

(2) The exemption from liability provided by paragraph (1) of this subsection shall not apply to—

(A) an individual from whom a fee is collected (or who is exempted from such fee) under section 3729(b)(2)(I) of this title; or

(B) a loan made for any purpose specified in section 3712 of this title.

(f) The application for or obtaining of a loan made, insured, or guaranteed under this chapter shall not be subject to reporting requirements applicable to requests for, or receipts of, Federal contracts, grants, loans, loan guarantees, loan insurance, or cooperative agreements except to the extent that such requirements are provided for in, or by the Secretary pursuant to, this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1205, 1212, § 1803; Pub. L. 86–73, § 2, June 30, 1959, 73 Stat. 156; Pub. L. 86–665, § 1, July 14, 1960, 74 Stat. 531; Pub. L. 87–84, § 1(a), July 6, 1961, 75 Stat. 201; Pub. L. 89–358, § 5(d), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90–77, title IV, § 403(b), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91–22, § 4, June 6, 1969, 83 Stat. 32; Pub. L. 91–506, § 2(b), (c), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93–75, July 26, 1973, 87 Stat. 176; Pub. L. 93–569, §§ 2(c), 8(1)–(5), Dec. 31, 1974, 88 Stat. 1863, 1866; Pub. L. 94–324, § 7(6), (16), June 30, 1976, 90 Stat. 721; Pub. L. 95–476, title I, § 103, Oct. 18, 1978, 92 Stat. 1498; Pub. L. 96–385, title IV, § 401(c)(1), Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97–66, title V, § 501(a), Oct. 17, 1981, 95 Stat. 1031; Pub. L. 97–72, title III, § 303(c), (e), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97–295, § 4(61), (63), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97–306, title IV, § 406(b), Oct. 14, 1982, 96 Stat. 1444; Pub. L. 98–223, title II, § 205(c), Mar. 2, 1984, 98 Stat. 43; Pub. L. 100–198, § 3(a)(1), Dec. 21, 1987, 101 Stat. 1315; Pub. L. 100–253, § 3(a), Feb. 29, 1988, 102 Stat. 20; Pub. L. 100–322, title IV, § 415(a)(3), (c)(2), (d)(1), May 20, 1988, 102 Stat. 550–552; Pub. L. 101–237, title III, §§ 304(a), 306(a), 313(b)(1), (6), Dec. 18, 1989, 103 Stat. 2073, 2074, 2077; Pub. L. 102–54, §§ 4(b), 6, June 13, 1991, 105 Stat. 268; renumbered § 3703 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 10(a), Oct. 28, 1992, 106 Stat. 3643; Pub. L. 103–78, § 6, Aug. 13, 1993, 107 Stat. 769; Pub. L. 103–353, § 7, Oct. 13, 1994, 108 Stat. 3175; Pub. L. 104–110, title I, § 101(d), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105–368, title VI, § 602(e)(1)(A), Nov. 11, 1998, 112 Stat. 3346; Pub. L. 107–103, title IV, § 401, Dec. 27, 2001, 115 Stat. 993; Pub. L. 107–330, title III, § 308(f)(1), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 108–454, title IV, § 403, Dec. 10, 2004, 118 Stat. 3616.)

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c)(2), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§ 693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, which was repealed upon the enactment of Title 38, Veterans' Benefits, by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1105. For distribution of sections 693 to 697g of former Title 38 in this title, see Table preceding section 101 of this title.

AMENDMENTS

2004—Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 108–454, § 403(a), substituted ''the maximum guaranty amount (as defined in subparagraph (C))'' for ''$60,000''.

Subsec. (a)(1)(C). Pub. L. 108–454, § 403(b), added subpar. (C).

2002—Subsec. (e)(2)(A). Pub. L. 107–330 substituted ''3729(b)(2)(I)'' for ''3729(b)''.

2001—Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 107–103 substituted ''$60,000'' for ''$50,750''.

1998—Subsec. (e)(1). Pub. L. 105–368 substituted ''3729(c)'' for ''3729(c)(1)''.

1996—Subsec. (c)(4)(D). Pub. L. 104–110 struck out subpar. (D) which read as follows: ''This paragraph shall expire on December 31, 1995.''

1994—Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 103–353 substituted ''$50,750'' for ''$46,000''.

1993—Subsec. (c)(4)(B). Pub. L. 103–78 in second sentence substituted ''Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount'' for ''Discount''.

1992—Subsec. (c)(1). Pub. L. 102–547, § 10(a)(1), in first sentence substituted ''applicable to'' for ''the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for'' and struck out '', and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter'' after ''(12 U.S.C. 1709(b))''.

Subsec. (c)(4). Pub. L. 102–547, § 10(a)(2), added par. (4).

1991—Pub. L. 102–83, § 5(a), renumbered section 1803 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 102–83, § 5(c)(1), substituted ''3710'' for ''1810'' in introductory provisions.

Subsec. (a)(1)(A)(i)(III). Pub. L. 102–54, § 6(1), inserted ''except as provided in subclause (IV) of this clause,'' after ''(III)'' and struck out ''but not more than $144,000,'' after ''$56,250,''.

Subsec. (a)(1)(A)(i)(IV). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a)'' for ''1810(a)''.

Pub. L. 102–54, § 6(2), substituted ''(6), or (8)'' for ''or (6)''.

Subsec. (a)(1)(B). Pub. L. 102–83, § 5(c)(1), substituted ''3710'' for ''1810'' and ''3702(b)'' for ''1802(b)''.

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a)'' for ''1810(a)''.

Subsec. (c)(3). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a)'' for ''1810(a)'' and ''3712(a)(1)(F)'' for ''1812(a)(1)(F)'' in subpar. (A), ''3710(a)'' for ''1810(a)'' in subpar. (B), and ''3710(a)(9)(B)(ii) or 3712(a)(1)(G)'' for ''1810(a)(9)(B)(ii) or 1812(a)(1)(G)'' in subpar. (E).

Subsec. (e)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3729'' for ''1829'' and ''3729(c)(1)'' for ''1829(c)(1)''.

Subsec. (e)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3729(b)'' for ''1829(b)'' in subpar. (A) and ''3712'' for ''1812'' in subpar. (B).

Subsec. (f). Pub. L. 102–54, § 4(b), added subsec. (f).

1989—Subsec. (a)(1)(A)(i). Pub. L. 101–237, § 306(a)(1), added subcls. (II) to (IV) and struck out former subcl. (II) which read as follows: ''in the case of any loan of more than $45,000, the lesser of $36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than $22,500; or''.

Subsec. (a)(1)(B). Pub. L. 101–237, § 306(a)(2), inserted '', or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, $46,000,'' after ''$36,000''.

Subsec. (a)(2). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(1). Pub. L. 101–237, § 313(b)(6), substituted ''Secretary of Housing and Urban Development considers'' for ''Secretary considers''.

Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(2)(B), (3)(D). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator''.

Subsec. (d)(2)(B), (C), (3). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

Subsec. (e). Pub. L. 101–237, § 304(a), added subsec. (e).

1988—Pub. L. 100–322, § 415(a)(3)(B), inserted ''and insurance'' in section catchline.

Subsec. (a)(1). Pub. L. 100–322, § 415(d)(1), inserted ''as specified in subparagraph (B) of this paragraph'' before period at end of cl. (A)(ii) and substituted ''for purposes specified in section 1810 of this title'' for ''under section 1810 of this chapter'' in cl. (B).

Pub. L. 100–253 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed—

''(A) in the case of any loan of not more than $45,000, 50 percent of the loan; or

''(B) in the case of any loan of more than $45,000, 40 percent of the loan or $36,000, whichever is less, except that the amount of such guaranty for any such loan shall not be less than $22,500;

reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.''

Subsec. (a)(2). Pub. L. 100–322, § 415(a)(3)(A)(ii), (iii), (B)(ii), redesignated subsecs. (a) and (b) of section 1815 of this title as subpars. (A) and (B), respectively, of par. (2) of subsec. (a) of this section and struck out former par. (2) which read as follows: ''Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.''

Subsec. (c)(3)(A). Pub. L. 100–322, § 415(c)(2)(A), substituted ''1812(a)(1)(F)'' for ''1819(a)(1)(F)''.

Subsec. (c)(3)(E). Pub. L. 100–322, § 415(c)(2)(B), substituted ''1812(a)(1)(G)'' for ''1819(a)(1)(G)''.

1987—Subsec. (a)(1). Pub. L. 100–198 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 percent of the loan if the loan is made for any of the purposes specified in section 1810 of this title.''

1984—Subsec. (c)(3)(A). Pub. L. 98–223, § 205(c)(1), substituted '', (8), or (9)(B)(i)'' for ''or (8)''.

Subsec. (c)(3)(E). Pub. L. 98–223, § 205(c)(2), inserted ''1810(a)(9)(B)(ii) or'' after ''section''.

1982—Subsec. (a)(1). Pub. L. 97–295, § 4(61), substituted ''percent'' for ''per centum''.

Subsec. (a)(2). Pub. L. 97–295, § 4(63)(A), substituted ''before October 23, 1970,'' for ''prior to the date of enactment of the Veterans' Housing Act of 1970''.

Subsec. (c)(1). Pub. L. 97–295, § 4(63)(B), inserted ''(12 U.S.C. 1709(b))'' after ''the National Housing Act''.

Subsec. (c)(3). Pub. L. 97–306, § 406(b)(1), substituted ''used—'' for ''used:''. Notwithstanding that Pub. L. 97–306 directed amendment be made in provisions preceding cl. (1), amendment was executed in provisions preceding cl. (A) as the probable intent of Congress in view of the absence of a cl. (1) in subsec. (c)(3).

Subsec. (c)(3)(E). Pub. L. 97–306, § 406(b)(2)–(4), added cl. (E).

Subsec. (d)(3). Pub. L. 97–295, § 4(63)(C), substituted ''June 6, 1969'' for ''the effective date of this amendment''.

1981—Subsec. (a)(2)(A) [formerly § 1815(a)]. Pub. L. 97–72, § 303(e), substituted ''Any housing loan'' for ''Any loan''. See 1988 Amendment note above.

Subsec. (d)(1). Pub. L. 97–72, § 303(c)(1), substituted ''any housing loan'' for ''any loan''.

Subsec. (d)(2). Pub. L. 97–66 designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (d)(3). Pub. L. 97–72, § 303(c)(2), substituted ''Any real estate housing loan'' for ''Any real estate loan''.

1980—Subsec. (c)(3)(A). Pub. L. 96–385 substituted ''clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title'' for ''section 1810(a)(5)''.

1978—Subsec. (a)(1). Pub. L. 95–476, § 103(a), substituted provision extending loan guarantees under this section to veterans eligible for benefits under this chapter for provision limiting such guarantees to World War II or Korean conflict veterans.

Subsec. (c)(1). Pub. L. 95–476, § 103(b)(1), inserted provision authorizing the Administrator in establishing rates of interest under this paragraph for purposes of cls. (4) to (7) of section 1810(a) of this title to establish rates higher than the rate specified for other purposes under such section but not in excess of the rate the Administrator may find the loan market demands for loans for such purposes.

Subsec. (c)(3)(B). Pub. L. 95–476, § 103(b)(2), substituted ''clauses (4) and (7) of section 1810(a) of this title'' for ''section 1810(a)(4)''.

1976—Subsec. (a)(2)(A) [formerly § 1815(a)]. Pub. L. 94–324, § 7(16), substituted ''the Administrator will'' for ''he will''. See 1988 Amendment note above.

Subsec. (d)(3). Pub. L. 94–324, § 7(6), substituted ''the Administrator determines'' for ''he determines''.

1974—Subsec. (a)(1). Pub. L. 93–569, § 8(1), struck out ''and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title'' after ''section 1810 of this title''.

Subsec. (a)(2)(B) [formerly § 1815(b)]. Pub. L. 93–569, § 8(5), struck out provision authorizing the Administrator to fix maximum interest rate payable on non-real-estate loans at not in excess of 3 percent discount rate or an equivalent straight interest rate on unamortized loans.

Pub. L. 93–569, § 8(2), struck out provision that, except as provided in sections 1810, 1811, and 1819, the aggregate amount guaranteed should not be more than $2,000 in the case of non-real-estate loans, nor $4,000 in the case of real-estate loans or a prorated portion thereof in a combination loan.

Subsec. (c)(3). Pub. L. 93–569, § 2(c), added par. (3).

Subsec. (d)(1). Pub. L. 93–569, § 8(3), substituted provision that the maturity of any loan shall not be more than thirty years and thirty-two days for provisions that non-real-estate loans shall not be more than ten years except as provided in section 1819, that the maturity of a real estate loan be not more than thirty years, and a loan on farm realty be not more than forty years.

Subsec. (d)(3). Pub. L. 93–569, § 8(4), struck out provision that any non-real-estate loan should be secured by personalty to the extent legal and practicable.

1973—Subsec. (c)(1). Pub. L. 93–75 substituted provisions requiring the Administrator to consult with the Secretary of Housing and Urban Development regarding the establishment of the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and to carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter, for former provision limiting rate of interest to rate in effect under section 203(b)(5) of the National Housing Act.

1970—Subsec. (a). Pub. L. 91–506, § 2(b), struck out loan eligibility expiration dates for World War II and Korean conflict veterans and inserted provision restoring expired entitlements of World War II and Korean conflict veterans and providing that such entitlements shall not expire until used.

Subsec. (b). Pub. L. 91–506, § 2(c)(1), substituted ''1810, 1811, and 1819'' for ''1810 and 1811''.

Subsec. (d)(1). Pub. L. 91–506, § 2(c)(2), limited maturity of non-real-estate loan to not more than ten years except as provided in section 1819 of this title.

1969—Subsec. (d)(3). Pub. L. 91–22 authorized the Administrator, in determining whether a Government loan is secured by a first lien on realty, to disregard a superior lien created by a duly recorded covenant which secures a veteran homeowner's share of the costs of managing, operating or maintaining property, services or programs common to the community in which the veteran's home is located, provided the interests of the Government and the veteran borrower are not prejudiced.

1967—Subsec. (a)(3)(A). Pub. L. 90–77 extended in cls. (i) and (ii) loan program for certain World War II veterans from July 25, 1967 to July 25, 1970.

1966—Subsec. (c)(1). Pub. L. 89–358 struck out provision for approval of rate of interest by the Secretary of the Treasury and substituted provision for a rate not in excess of that in effect under section 203(b)(5) of the National Housing Act, section 1709(b)(5) of Title 12, for former limitation of 5¼ per centum per annum.

1961—Subsec. (a). Pub. L. 87–84 substituted ''to a World War II or Korean conflict veteran, if made within the applicable period prescribed in paragraph (3) of this subsection'' for ''made to a World War II veteran, if made before July 26, 1962 (or, in the case of a veteran described in section 1801(a)(1)(B) of this title, before the expiration of fifteen years after World War II is deemed to have ended with respect to him), or to a Korean conflict veteran, if made before February 1, 1965,'' in par. (1), and ''is received by the Administrator before the date of the expiration of the veteran's entitlement, the loan'' for ''to a World War II veteran, whose entitlement would otherwise expire on July 25, 1962, has been received by the Administrator before July 26, 1962, such loan'' in par. (2), and added par. (3).

1960—Subsec. (a). Pub. L. 86–665 substituted ''1962'' for ''1960'' in three places, ''fifteen'' for ''thirteen'' years, and ''after such date'' for ''before July 26, 1961''.

1959—Subsec. (c)(1). Pub. L. 86–73 struck out requirement that the interest rate on a Veterans' Administration guarantee for direct loan be at least one-half of one percent below the prevailing rate on FHA-insured sales housing loans and increased the interest rate ceiling from 4¾ to 5¼ percent.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title III, § 308(f)(2), Dec. 6, 2002, 116 Stat. 2828, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419; 114 Stat. 1861).''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 306(b) of Pub. L. 101–237 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 18, 1989] and shall apply only with respect to loans closed after such date.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3(c) of Pub. L. 100–253 provided that: ''The amendments made by this section [amending this section and section 1819 [now 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 3(d) of Pub. L. 100–198 provided that: ''The amendments made by this section [amending this section and sections 1810, 1811, and 1819 [now 3710, 3711, and 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.''

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97–72, set out as an Effective Date note under section 3741 of this title.

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 7, 1980, see section 601(d) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95–476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–569 effective Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

ANNUAL REPORTS ON GUARANTEE AND INSURANCE OF LOANS BEARING NEGOTIATED INTEREST RATES AND POINTS

Section 10(b) of Pub. L. 102–547, as amended by Pub. L. 103–446, title XII, § 1202(d), Nov. 2, 1994, 108 Stat. 4689, directed Secretary of Veterans Affairs to transmit report on guarantee and insurance of loans bearing negotiated interest rates and points to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, and annually thereafter, prior to repeal by Pub. L. 104–110, title II, § 201(b), Feb. 13, 1996, 110 Stat. 770.

EXPIRATION OF LOAN BENEFIT ENTITLEMENT OF CERTAIN WORLD WAR II VETERANS

Section 403(c) of Pub. L. 90–77 provided that the World War II loan benefit entitlement of any veteran whose period of entitlement as computed under former subsec. (a)(3)(A) of this section extended beyond July 25, 1967, was not to be deemed to expire earlier than ninety days after the effective date of section 403 of Pub. L. 90–77 [see section 405(a) of Pub. L. 90–77, set out as an Effective Date of 1967 Amendment note under section 101 of this title].

§ 3704. Restrictions on loans

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Secretary; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) Subject to notice and opportunity for a hearing, the Secretary may refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person identified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers. The Secretary may also refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(c)(1) Except as provided in paragraph (2) of this subsection, no loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that the veteran applies for the loan, and also at the time that the loan is closed, certifies in such form as the Secretary may require, that the veteran intends to occupy the property as the veteran's home. Except as provided in paragraph (2) of this subsection, no loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that the veteran applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Secretary, that the veteran occupies the property as the veteran's home. Notwithstanding the foregoing provisions of this subsection, in the case of a loan automatically guaranteed under this chapter, the veteran shall be required to make the certification only at the time the loan is closed. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct home loan must occupy or intend to occupy the property as the veteran's home means that the veteran as of the date of the veteran's certification actually lives in the property personally as the veteran's residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as the veteran's residence. Notwithstanding the foregoing requirements of this subsection, the provisions for certification by the veteran at the time the veteran applies for the loan and at the time the loan is closed shall be considered to be satisfied if the Secretary finds that (1) in the case of a loan for repair, alteration, or improvement the veteran in fact did occupy the property at such times, or (2) in the case of a loan for construction or purchase the veteran intended to occupy the property as the veteran's home at such times and the veteran did in fact so occupy it when, or within a reasonable time after, the loan was closed.

(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

(A) paragraph (1) of this subsection;

(B) paragraphs (1) through (5) and paragraph (7) of section 3710(a) of this title;

(C) section 3712(a)(5)(A)(i) of this title; and

(D) section 3712(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.

(d) Subject to notice and opportunity for a hearing, whenever the Secretary finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, the Secretary may refuse either temporarily or permanently to guarantee or insure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Secretary shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender. The Secretary may also refuse either temporarily or permanently to guarantee or insure any loans made by a lender or holder refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(e) Any housing loan which is financed through the assistance of this chapter and to which section 3714 of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 3714.

(f) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1206, § 1804; Pub. L. 86–73, § 3, June 30, 1959, 73 Stat. 156; Pub. L. 86–665, § 5, July 14, 1960, 74 Stat. 532; Pub. L. 89–117, title II, § 217(b), Aug. 10, 1965, 79 Stat. 473; Pub. L. 90–19, § 25(2), May 25, 1967, 81 Stat. 28; Pub. L. 91–506, § 2(d), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93–569, § 2(d), (e), Dec. 31, 1974, 88 Stat. 1863, 1864; Pub. L. 94–324, § 7(7), (8), June 30, 1976, 90 Stat. 721; Pub. L. 97–295, § 4(64), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100–198, §§ 8(a)(1), 10(b), Dec. 21, 1987, 101 Stat. 1319, 1323; Pub. L. 100–322, title IV, § 415(c)(3), May 20, 1988, 102 Stat. 551; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3704 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–486, title I, § 101(c)(2), Oct. 24, 1992, 106 Stat. 2787; Pub. L. 103–446, title IX, § 903, Nov. 2, 1994, 108 Stat. 4676.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (b) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1994—Subsecs. (e) to (g). Pub. L. 103–446 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: "No loan for the purchase or construction of new residential property (other than property served by a water and sewerage system approved by the Secretary of Housing and Urban Development pursuant to title X of the National Housing Act (12 U.S.C. 1749aa et seq.)) shall be financed through the assistance of this chapter, except pursuant to a commitment made prior to August 10, 1965, if such property is not served by a public or adequate community water and sewerage system and is located in an area where the appropriate local officials certify that the establishment of such systems is economically feasible. For purposes of this subsection, the economic feasibility of establishing public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies."

1992—Subsec. (g). Pub. L. 102–486 added subsec. (g).

1991—Pub. L. 102–83, § 5(a), renumbered section 1804 of this title as this section.

Subsec. (c)(2). Pub. L. 102–83, § 5(c)(1), substituted "3710(a)" for "1810(a)" in subpar. (B), "3712(a)(5)(A)(i)" for "1812(a)(5)(A)(i)" in subpar. (C), and "3712(e)(5)" for "1812(e)(5)" in subpar. (D).

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted "3714" for "1814" in two places.

1989—Subsecs. (a) to (c)(1), (d). Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (c)(2)(C). Pub. L. 100–322, § 415(c)(3)(A), substituted "1812(a)(5)(A)(i)" for "1819(a)(5)(A)(i)".

Subsec. (c)(2)(D). Pub. L. 100–322, § 415(c)(3)(b), substituted "1812(e)(5)" for "1819(e)(5)".

Subsec. (f). Pub. L. 100–322, § 415(c)(3)(C), substituted "section 1814" for "section 1817A" in two places.

1987—Subsec. (c). Pub. L. 100–198, § 8(a), designated existing provision as par. (1), substituted "Except as provided in paragraph (2) of this subsection, no" for "No" in first and second sentences, and added par. (2).

Subsec. (f). Pub. L. 100–198, § 10(b), added subsec. (f).

1982—Subsec. (e). Pub. L. 97–295 inserted "(12 U.S.C. 1749aa et seq.)" after "the National Housing Act", and substituted "August 10, 1965" for "the date of the enactment of the Housing and Urban Development Act of 1965".

1976—Subsec. (c). Pub. L. 94–324, § 7(7), substituted "the veteran" for "he" in six places and "the veteran's" for "his" wherever appearing.

Subsec. (d). Pub. L. 94–324, § 7(8), substituted "the Administrator may" for "he may".

1974—Subsec. (b). Pub. L. 93–569, § 2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

Subsec. (c). Pub. L. 93–569, § 2(d), inserted provision that, the foregoing provisions notwithstanding, in the case of an automatically guaranteed loan, the veteran is required to make certification only at the time of loan closing.

Subsec. (d). Pub. L. 93–569, § 2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

1970—Subsec. (b). Pub. L. 91–506 substituted "Subject to notice and opportunity for a hearing, the" for "The".

Subsec. (d). Pub. L. 91–506 substituted "Subject to notice and opportunity for a hearing, whenever" for "Whenever".

1967—Subsecs. (b), (d), (e). Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (e). Pub. L. 89–117 added subsec. (e).

1960—Subsec. (c). Pub. L. 86–665 inserted sentence respecting satisfaction of provisions for certification by the veteran at the time he applies for the loan and at the time the loan is closed.

1959—Subsec. (b). Pub. L. 86–73, § 3(a), authorized the Administrator to refuse to appraise any property if the builder or sponsor of the property had been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

Subsec. (d). Pub. L. 86–73, § 3(b), authorized the Administrator to refuse to guarantee or insure loans if the lender or holder of the loans has been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 8(c) of Pub. L. 100–198 provided that: "The amendments made by this section [amending this section and sections 1810 and 1819 [now 3710 and 3712] of this title] shall apply with respect to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987]."

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–569 effective Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as a note under section 3702 of this title.

§ 3705. Warranties

(a) The Secretary shall require that in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is appraised for guaranty or insurance before the beginning of construction, the seller or builder, and such other person as may be required by the Secretary to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary) on which the Secretary based the Secretary's valuation of the dwelling. The Secretary shall deliver to the builder, seller, or other warrantor the Secretary's written approval (which shall be conclusive evidence of such appraisal) of any amendment of, or change or variation in, such plans and specifications which the Secretary deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Secretary) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Secretary on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(b) The Secretary shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, home owner, or warrantor during such hours or periods of time as the Secretary may determine to be reasonable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1206, § 1805; Pub. L. 94–324, § 7(9), June 30, 1976, 90 Stat. 721; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–54, § 15(a)(1), June 13, 1991, 105 Stat. 288; renumbered § 3705, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1202(a)(2), Nov. 2, 1994, 108 Stat. 4689.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 made technical correction to directory language of Pub. L. 102–54, § 15(a)(1)(A). See 1991 Amendment note below.

1991—Pub. L. 102–83, § 5(a), renumbered section 1805 of this title as this section.

Subsec. (a). Pub. L. 102–54, § 15(a)(1)(B), substituted "appraisal)" for "approval)" in second sentence.

Pub. L. 102–54, § 15(a)(1)(A), as amended by Pub. L. 103–446, substituted "appraised" for "approved" before "for guaranty" in first sentence.

1989—Pub. L. 101–237 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1976—Subsec. (a). Pub. L. 94–324 substituted "the Administrator's" for "his" wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(a) of Pub. L. 103–446 provided that the amendment made by that section is effective June 13, 1991, and as if included in the enactment of Pub. L. 102–54.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

§ 3706. Escrow of deposits and downpayments

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Secretary has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment from the claims of creditors of the seller. The failure of the seller or the seller's agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 3704(b) of this title.

(b) If an eligible veteran contracts for the construction of a property in a project on which the Secretary has issued a Certificate of Reasonable Value and such construction is to be financed with the assistance of a construction loan to be guaranteed, insured, or made under the provi-

sions of this chapter, it may be considered an unfair marketing practice under section 3704(b) of this title if any deposit or downpayment of the veteran is not maintained in a special trust account by the recipient until it is either (1) applied on behalf of the veteran to the cost of the land or to the cost of construction or (2), if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract.

(Added Pub. L. 86–665, § 6(a), July 14, 1960, 74 Stat. 532, § 1806; amended Pub. L. 94–324, § 7(10), June 30, 1976, 90 Stat. 721; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3706 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(e)(13), Nov. 2, 1994, 108 Stat. 4685.)

AMENDMENTS

1994—Pub. L. 103–446, which directed the substitution of "of this title" for "of this chapter" the second and third places appearing, was executed by making the substitution the second and fourth places appearing to reflect the probable intent of Congress.

1991—Pub. L. 102–83, § 5(a), renumbered section 1806 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted "3704(b)" for "1804(b)" in subsecs. (a) and (b).

1989—Pub. L. 101–237 substituted "Secretary" for "Administrator" wherever appearing.

1976—Subsec. (a). Pub. L. 94–324 substituted "the seller's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

§ 3707. Adjustable rate mortgages

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993 through 2008 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.

(Added Pub. L. 102–547, § 3(a)(1), Oct. 28, 1992, 106 Stat. 3634; amended Pub. L. 103–78, § 7, Aug. 13, 1993, 107 Stat. 769; Pub. L. 108–454, title IV, § 404, Dec. 10, 2004, 118 Stat. 3616.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (c)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified generally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. Section 251 of the Act is classified to section 1715z–16 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454 substituted "during fiscal years 1993 through 2008" for "during fiscal years 1993, 1994, and 1995".

1993—Subsec. (b)(2). Pub. L. 103–78 struck out before semicolon at end "on the anniversary of the date on which the loan was closed".

ANNUAL REPORTS ON ADJUSTABLE RATE MORTGAGES GUARANTEED UNDER THIS SECTION

Section 3(b) of Pub. L. 102–547 directed Secretary of Veterans Affairs to transmit adjustable rate mortgage report to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, containing description of project carried out under this section and thereafter to transmit annual reports to such committees with respect to default rates and other information concerning loans guaranteed under this section prior to repeal by Pub. L. 104–110, title II, § 201(b), Feb. 13, 1996, 110 Stat. 770.

§ 3707A. Hybrid adjustable rate mortgages

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 2004 through 2008 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as "hybrid adjustable rate mortgages") having interest rate adjustment provisions that—

(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

(c) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) in the case of the initial contract interest rate adjustment—

(A) if the initial contract interest rate remained fixed for less than 5 years, be limited to a maximum increase or decrease of 1 percentage point; or

(B) if the initial contract interest rate remained fixed for 5 years or more, be limited to a maximum increase or decrease of such percentage point or points as the Secretary may prescribe;

(4) in the case of any single annual interest rate adjustment after the initial contract interest rate adjustment, be limited to a maximum increase or decrease of 1 percentage point; and

(5) be limited, over the term of the mortgage, to a maximum increase of such number of percentage points as the Secretary shall prescribe for purposes of this section.

(d) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (c)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(e) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.

(Added Pub. L. 107–330, title III, § 303(a), Dec. 6, 2002, 116 Stat. 2825; amended Pub. L. 108–454, title IV, § 405(a), (b), Dec. 10, 2004, 118 Stat. 3616.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (d)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified generally to subchapter II (§ 1707 et seq.) of chapter 13 of Title 12, Banks and Banking. Section 251 of the Act is classified to section 1715z–16 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454, § 405(a), substituted ''during fiscal years 2004 through 2008'' for ''during fiscal years 2004 and 2005''.

Subsec. (c)(3). Pub. L. 108–454, § 405(b)(2), added par. (3) and struck out former par. (3) which read as follows: ''be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and''.

Subsec. (c)(4). Pub. L. 108–454, § 405(b)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 108–454, § 405(b)(1), (3), redesignated par. (4) as (5) and substituted ''such number of percentage points as the Secretary shall prescribe for purposes of this section'' for ''5 percentage points above the initial contract interest rate''.

NO EFFECT ON GUARANTEE OF LOANS UNDER HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE DEMONSTRATION PROJECT

Pub. L. 108–454, title IV, § 405(c), Dec. 10, 2004, 118 Stat. 3616, provided that: ''The amendments made by this section [amending this section] shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Dec. 10, 2004].''

§ 3708. Authority to buy down interest rates: pilot program

(a) In order to enable the purchase of housing in areas where the supply of suitable military housing is inadequate, the Secretary may conduct a pilot program under which the Secretary may make periodic or lump sum assistance payments on behalf of an eligible veteran for the purpose of buying down the interest rate on a loan to that veteran that is guaranteed under this chapter for a purpose described in paragraph (1), (6), or (10) of section 3710(a) of this title.

(b) An individual is an eligible veteran for the purposes of this section if—

(1) the individual is a veteran, as defined in section 3701(b)(4) of this title;

(2) the individual submits an application for a loan guaranteed under this chapter within one year of an assignment of the individual to duty at a military installation in the United States designated by the Secretary of Defense as a housing shortage area;

(3) at the time the loan referred to in subsection (a) is made, the individual is an enlisted member, warrant officer, or an officer (other than a warrant officer) at a pay grade of O–3 or below;

(4) the individual has not previously used any of the individual's entitlement to housing loan benefits under this chapter; and

(5) the individual receives comprehensive prepurchase counseling from the Secretary (or the designee of the Secretary) before making application for a loan guaranteed under this chapter.

(c) Loans with respect to which the Secretary may exercise the buy down authority under subsection (a) shall—

(1) provide for a buy down period of not more than three years in duration;

(2) specify the maximum and likely amounts of increases in mortgage payments that the loans would require; and

(3) be subject to such other terms and conditions as the Secretary may prescribe by regulation.

(d) The Secretary shall promulgate underwriting standards for loans for which the interest rate assistance payments may be made under subsection (a). Such standards shall be based on the interest rate for the second year of the loan.

(e) The Secretary or lender shall provide comprehensive prepurchase counseling to eligible veterans explaining the features of interest rate buy downs under subsection (a), including a hypothetical payment schedule that displays the increases in monthly payments to the mortgagor over the first five years of the mortgage term. For the purposes of this subsection, the Secretary may assign personnel to military installations referred to in subsection (b)(2).

(f) There is authorized to be appropriated $3,000,000 annually to carry out this section.

(g) The Secretary may not guarantee a loan under this chapter after September 30, 1998, on which the Secretary is obligated to make payments under this section.

(Added Pub. L. 104–106, div. B, title XXVIII, § 2822(b)(1), Feb. 10, 1996, 110 Stat. 556.)

AUTHORITY OF SECRETARY OF DEFENSE

Section 2822(c) of Pub. L. 104–106 provided that:

''(1) REIMBURSEMENT FOR BUY DOWN COSTS.—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for amounts paid by the Secretary of Veterans Affairs to mortgagees under section 3708 of title 38, United States Code, as added by subsection (b).

''(2) DESIGNATION OF HOUSING SHORTAGE AREAS.—For purposes of section 3708 of title 38, United States Code, the Secretary of Defense may designate as a housing shortage area a military installation in the United States at which the Secretary determines there is a shortage of suitable housing to meet the military family needs of members of the Armed Forces and the dependents of such members.

''(3) REPORT.—Not later than March 30, 1998, the Secretary shall submit to Congress a report regarding the effectiveness of the authority provided in section 3708 of title 38, United States Code, in ensuring that members of the Armed Forces and their dependents have access to suitable housing. The report shall include the recommendations of the Secretary regarding whether the authority provided in this subsection should be extended beyond the date specified in paragraph (5).

''(4) EARMARK.—Of the amount provided in section 2405(a)(11)(B) [110 Stat. 538], $10,000,000 for fiscal year 1996 shall be available to carry out this subsection.

''(5) SUNSET.—This subsection shall not apply with respect to housing loans guaranteed after September 30, 1998, for which assistance payments are paid under section 3708 of title 38, United States Code.''

SUBCHAPTER II—LOANS

§ 3710. Purchase or construction of homes

(a) Except as provided in section 3704(c)(2) of this title, any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home.

(2) To purchase a farm on which there is a farm residence to be owned and occupied by the veteran as the veteran's home.

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as the veteran's home.

(4) To repair, alter, or improve a farm residence or other dwelling owned by the veteran and occupied by the veteran as the veteran's home.

(5) To refinance existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home.

(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Secretary under criteria which the Secretary shall prescribe in regulations.

(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through energy efficiency improvements, as provided in subsection (d).

(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter.

(9)(A)(i) To purchase a manufactured home to be permanently affixed to a lot that is owned by the veteran.

(ii) To purchase a manufactured home and a lot to which the home will be permanently affixed.

(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed to a lot that is owned by the veteran.

(ii) To refinance, in accordance with section 3712(a)(5) of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.

(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).

(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 3711 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

(b) No loan may be guaranteed under this section or made under section 3711 of this title unless—

(1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;

(2) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price or the construction cost bear a proper relation to the veter-

an's present and anticipated income and expenses;

(3) the veteran is a satisfactory credit risk, as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section;

(4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) except in the case of a loan described in clause (7) or (8) of this subsection, the loan to be paid by the veteran for such property or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined pursuant to section 3731 of this title;

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property;

(7) in the case of a loan (other than a loan made for a purpose specified in subsection (a)(8) of this section) that is made to refinance—

(A) a construction loan,

(B) an installment land sales contract, or

(C) a loan assumed by the veteran that provides for a lower interest rate than the loan being refinanced,

the amount of the loan to be guaranteed or made does not exceed the lesser of—

(i) the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 3731 of this title; or

(ii) the sum of the outstanding balance on the loan to be refinanced and the closing costs (including discounts) actually paid by the veteran, as specified by the Secretary in regulations; and

(8) in the case of a loan to refinance a loan (other than a loan or installment sales contract described in clause (7) of this subsection or a loan made for a purpose specified in subsection (a)(8) of this section), the amount of the loan to be guaranteed or made does not exceed 90 percent of the reasonable value of the dwelling or farm residence securing the loan, as determined pursuant to section 3731 of this title.

[(c) Repealed. Pub. L. 100–198, § 3(a)(2), Dec. 21, 1987, 101 Stat. 1315.]

(d)(1) The Secretary shall carry out a program to demonstrate the feasibility of guaranteeing loans for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

(2) The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of—

(A) the cost of the energy efficiency improvements, up to $3,000; or

(B) $6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

(3) Notwithstanding the provisions of section 3703(a)(1)(A) of this title, any loan guaranteed under this subsection shall be guaranteed in an amount equal to the sum of—

(A) the guaranty that would be provided under those provisions for the dwelling without the energy efficiency improvements; and

(B) an amount that bears the same relation to the cost of the energy efficiency improvements as the guaranty referred to in subparagraph (A) bears to the amount of the loan minus the cost of such improvements.

(4) The amount of the veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of this title, shall not be affected by the amount of the guaranty referred to in paragraph (3)(B).

(5) The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of loan guarantees under this subsection and the procedures and requirements that apply to the obtaining of such guarantees.

(6) For the purposes of this subsection:

(A) The term ''energy efficiency improvement'' includes a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, and the application of a residential energy conservation measure.

(B) The term ''solar heating'' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

(C) The terms ''solar heating and cooling'' and ''combined solar heating and cooling'' have the meaning given such terms in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

(D) The term ''passive system'' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

(E) The term ''residential energy conservation measure'' means—

(i) caulking and weatherstripping of all exterior doors and windows;

(ii) furnace efficiency modifications limited to—

(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(iii) clock thermostats;

(iv) ceiling, attic, wall, and floor insulation;

(v) water heater insulation;

(vi) storm windows and doors;

(vii) heat pumps; and

(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) or for the purpose specified in subsection (a)(11) of this section—

(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee;

(B) the loan must be secured by the same dwelling or farm residence as was the loan being refinanced;

(C) the amount of the loan may not exceed—

(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);

(D) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (i) the original guaranty amount of the loan being refinanced, or (ii) 25 percent of the loan;

(E) the term of the loan may not exceed the original term of the loan being refinanced by more than 10 years; and

(F) the veteran must own the dwelling or farm residence securing the loan and—

(i) must occupy such dwelling or residence as such veteran's home;

(ii) must have previously occupied such dwelling or residence as such veteran's home and must certify, in such form as the Secretary shall require, that the veteran has previously so occupied such dwelling or residence; or

(iii) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy such residence or dwelling as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, such dwelling or residence as such spouse's home and must certify such occupancy in such form as the Secretary shall require.

(2) A loan to a veteran may be guaranteed by the Secretary under this chapter for the purpose specified in clause (8) of subsection (a) of this section without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 3702(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(3) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan guaranteed, insured, or made under this chapter, such surviving spouse shall, only for the purpose specified in subsection (a)(8) of this section, be deemed to be a veteran eligible for benefits under this chapter.

(f)(1) For a loan to be guaranteed for the purpose specified in subclause (A)(ii) or (B)(ii) of subsection (a)(9) of this section, the purchase of (or the refinancing of a loan secured by) the manufactured home and the lot for that home shall be considered as one loan and must comply with such criteria as may be prescribed by the Secretary in regulations.

(2) A loan may not be guaranteed for the purposes of subsection (a)(9) of this section unless the manufactured home purchased, upon being permanently affixed to the lot, is considered to be real property under the laws of the State where the lot is located.

(g)(1) For the purposes of this subsection, the term ''veteran'', when used with respect to a loan guaranteed or to be guaranteed under this chapter, includes the veteran's spouse if the spouse is jointly liable with the veteran under the loan.

(2) For the purpose of determining whether a veteran meets the standards referred to in subsection (b)(3) of this section and section 3712(e)(2) of this title, the Secretary shall prescribe regulations which establish—

(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

(3) In the regulations prescribed under paragraph (2) of this subsection, the Secretary shall establish standards that include—

(A) debt-to-income ratios to apply in the case of the veteran applying for the loan;

(B) criteria for evaluating the reliability and stability of the income of the veteran applying for the loan; and

(C) procedures for ascertaining the monthly income required by the veteran to meet the anticipated loan payment terms.

If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Secretary shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Secretary determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region.

(4)(A) Any lender making a loan under this chapter shall certify, in such form as the Sec-

retary shall prescribe, that the lender has complied with the credit information and loan processing standards established under paragraph (2)(B) of this subsection, and that, to the best of the lender's knowledge and belief, the loan meets the underwriting standards established under paragraph (2)(A) of this subsection.

(B) Any lender who knowingly and willfully makes a false certification under subparagraph (A) of this paragraph shall be liable to the United States Government for a civil penalty equal to two times the amount of the Secretary's loss on the loan involved or to another appropriate amount, not to exceed $10,000, whichever is greater. All determinations necessary to carry out this subparagraph shall be made by the Secretary.

(5) Pursuant to regulations prescribed to carry out this paragraph, the Secretary may, in extraordinary situations, waive the application of the credit underwriting standards established under paragraph (2) of this subsection when the Secretary determines, considering the totality of circumstances, that the veteran is a satisfactory credit risk.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1207, § 1810; Pub. L. 90–301, §§ 1(a), 2(a), May 7, 1968, 82 Stat. 113; Pub. L. 91–506, § 3, Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93–569, § 3, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94–324, § 7(11), June 30, 1976, 90 Stat. 721; Pub. L. 95–476, title I, §§ 104, 105(a), Oct. 18, 1978, 92 Stat. 1498, 1499; Pub. L. 96–385, title IV, §§ 401(a), 402(a), Oct. 7, 1980, 94 Stat. 1532, 1533; Pub. L. 98–223, title II, § 205(a), Mar. 2, 1984, 98 Stat. 42; Pub. L. 99–576, title IV, § 402(a), (b), Oct. 28, 1986, 100 Stat. 3280; Pub. L. 100–198, §§ 3(a)(2), 7(a), (c), 8(a)(2), 11(b), 13, Dec. 21, 1987, 101 Stat. 1315, 1318–1320, 1325; Pub. L. 100–322, title IV, § 415(c)(4), May 20, 1988, 102 Stat. 551; Pub. L. 101–237, title III, §§ 309, 313(b)(1), Dec. 18, 1989, 103 Stat. 2075, 2077; renumbered § 3710 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(iv), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 102–547, §§ 6(1), 9(a), (b), Oct. 28, 1992, 106 Stat. 3636, 3641, 3642; Pub. L. 103–446, title IX, §§ 904(a), (b), 905, Nov. 2, 1994, 108 Stat. 4676, 4677; Pub. L. 104–110, title I, § 101(e), Feb. 13, 1996, 110 Stat. 768.)

CODIFICATION

Another section 11(b) of Pub. L. 100–198 amended section 1831 [now 3731] of this title.

AMENDMENTS

1996—Subsec. (d)(7). Pub. L. 104–110 struck out par. (7) which read as follows: "A loan may not be guaranteed under this subsection after December 31, 1995."

1994—Subsec. (a)(11). Pub. L. 103–446, § 904(a), added par. (11).

Subsec. (e)(1). Pub. L. 103–446, § 904(b)(1), inserted "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)" in introductory provisions.

Subsec. (e)(1)(A). Pub. L. 103–446, § 905, inserted before semicolon at end "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee".

Subsec. (e)(1)(C). Pub. L. 103–446, § 904(b)(2), substituted "may not exceed—" and cls. (i) and (ii) for "may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loan;".

1992—Subsec. (a)(7). Pub. L. 102–547, § 9(b)(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: "To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through the installation of a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system or through the application of a residential energy conservation measure."

Subsec. (a)(10). Pub. L. 102–547, § 9(b)(2), added par. (10).

Subsec. (d). Pub. L. 102–547, § 9(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) defined terms "solar heating", "solar heating and cooling", "combined solar heating and cooling", "passive system", and "residential energy conservation measure" for purposes of subsec. (a)(7).

Subsec. (e)(1)(D). Pub. L. 102–547, § 6(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: "the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;".

1991—Pub. L. 102–83, § 5(a), renumbered section 1810 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "3704(c)(2)" for "1804(c)(2)" in introductory provisions, "3712(a)(5)" for "1812(a)(5)" in par. (9)(B)(ii), and "3711" for "1811" in concluding provisions.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted "3711" for "1811" in introductory provisions and "3731" for "1831" in pars. (5), (7)(i), and (8).

Subsec. (e)(1)(C). Pub. L. 102–83, § 5(c)(1), substituted "3703(c)(3)(A)" for "1803(c)(3)(A)".

Subsec. (e)(2). Pub. L. 102–83, § 5(c)(1), substituted "3702(b)" for "1802(b)".

Pub. L. 102–83, § 4(a)(2)(A)(iv), substituted "Secretary" for "Veterans' Administration".

Subsec. (g)(2). Pub. L. 102–83, § 5(c)(1), substituted "3712(e)(2)" for "1812(e)(2)".

1989—Subsec. (a)(6). Pub. L. 101–237, § 313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b)(5) to (8). Pub. L. 101–237, § 309(b), inserted "except in the case of a loan described in clause (7) or (8) of this subsection," before "the loan to be paid" in cl. (5), struck out "and," at end of cl. (5), substituted semicolon for period at end of cl. (6), and added cls. (7) and (8).

Subsecs. (d) to (g). Pub. L. 101–237, § 313(b)(1), substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

Subsec. (h). Pub. L. 101–237, § 309(a), struck out subsec. (h) which read as follows: "The amount of a loan guaranteed for the purpose specified in subsection (a)(5) of this section may not exceed the amount equal to 90 percent of the appraised value of the dwelling or farm residence which will secure the loan, as determined by the Administrator."

1988—Subsec. (a)(9)(B)(ii). Pub. L. 100–322, § 415(c)(4)(A), substituted "section 1812(a)(5)" for "section 1819(a)(5)".

Subsec. (g)(2). Pub. L. 100–322, § 415(c)(4)(B), substituted "section 1812(e)(2)" for "section 1819(e)(2)".

1987—Subsec. (a). Pub. L. 100–198, § 8(a)(2), substituted "Except as provided in section 1804(c)(2) of this title, any" for "Any".

Subsec. (b). Pub. L. 100–198, § 11(b), substituted "pursuant to section 1831 of this title" for "by the Administrator" in cl. (5) and struck out last sentence which read as follows: "After the reasonable value of any property, construction, repairs, or alterations is determined under paragraph (5), the Administrator shall, as soon as possible thereafter, notify the veteran concerned of such determination."

Subsec. (c). Pub. L. 100–198, § 3(a)(2), struck out subsec. (c) which read as follows: "The amount of guaranty entitlement available to a veteran under this section shall not be more than $27,500 less such entitlement as may have been used previously under this section and other sections of this chapter."

Subsec. (e)(1)(B). Pub. L. 100–198, § 7(a)(1), struck out ''and such dwelling or residence must be owned and occupied by the veteran as such veteran's home'' after ''refinanced''.

Subsec. (e)(1)(D). Pub. L. 100–198, § 7(a)(2), struck out ''and'' at end.

Subsec. (e)(1)(E). Pub. L. 100–198, § 7(a)(3), substituted ''by more than 10 years; and'' for period at end.

Subsec. (e)(1)(F). Pub. L. 100–198, § 7(a)(4), added cl. (F).

Subsec. (g)(3). Pub. L. 100–198, § 13, inserted at end ''If the procedures described in clause (C) of this paragraph include standards for evaluating residual income, the Administrator shall, in establishing such standards, give appropriate consideration to State statistics (in States as to which the Administrator determines that such statistics are reliable) pertinent to residual income and the cost of living in the State in question rather than in a larger region.''

Subsec. (h). Pub. L. 100–198, § 7(c), added subsec. (h).

1986—Subsec. (b)(3). Pub. L. 99–576, § 402(a), inserted '', as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section''.

Subsec. (g). Pub. L. 99–576, § 402(b), added subsec. (g).

1984—Subsec. (a)(9). Pub. L. 98–223, § 205(a)(1), added par. (9).

Subsec. (f). Pub. L. 98–223, § 205(a)(2), added subsec. (f).

1980—Subsec. (a)(8). Pub. L. 96–385, § 401(a)(1), added par. (8).

Subsec. (c). Pub. L. 96–385, § 402(a), substituted ''$27,500'' for ''$25,000''.

Subsec. (e). Pub. L. 96–385, § 401(a)(2), added subsec. (e).

1978—Subsec. (a)(6). Pub. L. 95–476, § 104(1), struck out requirement that the purchased residential unit be in a new condominium development, struck out provision that such unit could be in a structure built and sold as a condominium, and inserted provision that the criteria prescribed by the Administrator be prescribed through regulations.

Subsec. (a)(7). Pub. L. 95–476, § 104(2), added par. (7).

Subsec. (c). Pub. L. 95–476, § 105(a), substituted ''$25,000'' for ''$17,500''.

Subsec. (d). Pub. L. 95–476, § 104(3), added subsec. (d).

1976—Subsec. (a). Pub. L. 94–324 substituted ''the veteran'', ''the veteran's'' and ''the Administrator'' for ''him'', ''his'' and ''he'', respectively, wherever appearing.

1974—Subsec. (a)(5). Pub. L. 93–569, § 3(1), struck out ''Nothing in this chapter shall preclude a veteran from paying to a lender any discount required by such lender in connection with such refinancing.''

Subsec. (a)(6). Pub. L. 93–569, § 3(2), added par. (6).

Subsec. (c). Pub. L. 93–569, § 3(3), substituted ''$17,500'' for ''$12,500''.

Subsec. (d). Pub. L. 93–569, § 3(4), struck out subsec. (d) relating to guaranty of loans for purchase of a one-family residential unit in a condominium housing project or development as to which Secretary of Housing and Urban Development has issued, under section 234 of the National Housing Act, evidence of insurance.

1970—Subsec. (a). Pub. L. 91–506, § 3(1), added par. (5) permitting a veteran to use his loan guaranty eligibility to refinance existing mortgage loans or other liens on dwellings on farm residences he occupies and provided that veterans using loan guarantees for such refinancing may pay points demanded by a lender.

Subsec. (d). Pub. L. 91–506, § 3(2), added subsec. (d).

1968—Subsec. (b). Pub. L. 90–301, § 2(a), substituted ''loan to be paid'' for ''price paid or to be paid'' in par. (5) of first sentence and inserted sentence at end relating to notification of veteran concerned of determination of reasonable value of any property, construction, repairs, or alterations.

Subsec. (c). Pub. L. 90–301, § 1(a), increased limitation on amount of guaranty entitlement from $7,500 to $12,500.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(a)(2) of Pub. L. 100–198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100–198, set out as a note under section 3703 of this title.

Section 7(d) of Pub. L. 100–198 provided that:

''(1) The amendments made by subsections (a) and (b) of this section [amending this section and section 1819 [now 3712] of this title] shall apply to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987].

''(2) The amendment made by subsection (c) of this section [amending this section] shall apply to loans for which commitments are made more than 60 days after the date of the enactment of this Act.''

Amendment by section 8(a)(2) of Pub. L. 100–198 applicable with respect to loans made more than 30 days after Dec. 21, 1987, see section 8(c) of Pub. L. 100–198, set out as a note under section 3704 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 401(a) and 402(a) of Pub. L. 96–385 effective Oct. 7, 1980, and Oct. 1, 1980, respectively, see section 601(b), (d) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by sections 104(2), (3) and 105(a) of Pub. L. 95–476 effective Oct. 1, 1978, and amendment by section 104(1) of Pub. L. 95–476 effective July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which is effective Oct. 18, 1978, see section 108(a), (b) of Pub. L. 95–476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–569 effective Dec. 31, 1974, except that amendment by section 3(2), (4) of Pub. L. 93–569 effective ninety days after Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as a note under section 3702 of this title.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

REPORTS ON ENERGY EFFICIENT MORTGAGES GUARANTEED UNDER THIS SECTION

Section 9(c) of Pub. L. 102–547 directed Secretary of Veterans Affairs to transmit report on energy efficient mortgages to Committees on Veterans' Affairs of Senate and House of Representatives not later than 1 year after date on which Secretary first exercises authority to guarantee loans under section 3710(d) of this title and for each of the 3 years thereafter, prior to repeal by Pub. L. 104–110, title II, § 201(b), Feb. 13, 1996, 110 Stat. 770.

§ 3711. Direct loans to veterans

(a) The Congress finds that housing credit for purposes specified in section 3710 or 3712 of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to pro-

vide housing credit for veterans living in such rural areas and such small cities and towns.

(b) Whenever the Secretary finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed for purposes specified in section 3710 or 3712 of this title, the Secretary shall designate such rural area or small city or town as a ''housing credit shortage area''. The Secretary shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 3710(a) or 3712 of this title (other than the refinancing of a loan under section 3710(a)(8) or 3712(a)(1)(F)).

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Secretary that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 3710 or 3712 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(d)(1) Loans made under this section shall bear interest at a rate determined by the Secretary, not to exceed the rate authorized for guaranteed home loans, or manufactured home loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

(2)(A) Except for any loan made under this chapter for the purposes described in section 3712 of this title, the original principal amount of any loan made under this section shall not exceed an amount which bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under section 3710 of this title at the time the loan is made bears to $36,000; and the guaranty entitlement of any veteran who heretofore or hereafter has been granted a loan under this section shall be charged with an amount which bears the same ratio to $36,000 as the amount of the loan bears to $33,000.

(B) The original principal amount of any loan made under this section for the purposes described in section 3712 of this title shall not exceed the amount that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $20,000. The amount of the guaranty entitlement for purposes specified in section 3710 of this title of any veteran who is granted a loan under this section, or who before October 18, 1978, was granted a loan under this section, shall be charged with the amount that bears the same ratio to $20,000 as the amount of the loan bears to $33,000.

(3) No veteran may obtain loans under this section aggregating more than $33,000.

(e) Loans made under this section shall be repaid in monthly installments, except that in the case of any such loan made for any of the purposes described in paragraphs (2), (3), or (4) of section 3710(a) of this title, the Secretary may provide that such loan shall be repaid in quarterly, semiannual, or annual installments.

(f) In connection with any loan under this section, the Secretary may make advances in cash to pay taxes and assessments on the real estate, to provide for repairs, alterations, and improvements, and to meet the incidental expenses of the transaction. The Secretary shall determine the expenses incident to origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) The Secretary may sell, and shall offer for sale, to any person or entity approved for such purpose by the Secretary, any loan made under this section at a price which the Secretary determines to be reasonable under the conditions prevailing in the mortgage market when the agreement to sell the loan is made; and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed for purposes specified in section 3710 or 3712 of this title, as appropriate.

(h) The Secretary may exempt dwellings constructed through assistance provided by this section from the minimum land planning and subdivision requirements prescribed pursuant to subsection (a) of section 3704 of this title, and with respect to such dwellings may prescribe special minimum land planning and subdivision requirements which shall be in keeping with the general housing facilities in the locality but shall require that such dwellings meet minimum requirements of structural soundness and general acceptability.

(i) The Secretary is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter.

(j)(1) If any builder or sponsor proposes to construct one or more dwellings in a housing credit shortage area, or in any area for a veteran who is determined to be eligible for assistance in acquiring a specially adapted housing unit under chapter 21 of this title, the Secretary may enter into commitment with such builder or sponsor, under which funds available for loans under this section will be reserved for a period not in excess of three months, or such longer period as the Secretary may authorize to meet the needs in any particular case, for the purpose of making loans to veterans to purchase such dwellings. Such commitment may not be assigned or transferred except with the written approval of the Secretary. The Secretary shall not enter into any such commitment unless such builder or sponsor pays a nonrefundable commitment fee to the Secretary in an amount determined by the Secretary, not to exceed 2 percent of the funds reserved for such builder or sponsor.

(2) Whenever the Secretary finds that a dwelling with respect to which funds are being reserved under this subsection has been sold, or contracted to be sold, to a veteran eligible for a direct loan under this section, the Secretary shall enter into a commitment to make the veteran a loan for the purchase of such dwelling. With respect to any loan made to an eligible veteran under this subsection, the Secretary may make advances during the construction of the dwelling, up to a maximum in advances of (A) the cost of the land plus (B) 80 percent of the value of the construction in place.

(k) Without regard to any other provision of this chapter, the Secretary may take or cause to be taken such action as in the Secretary's judgment may be necessary or appropriate for or in connection with the custody, management, protection, and realization or sale of investments under this section, may determine the Secretary's necessary expenses and expenditures, and the manner in which the same shall be incurred, allowed and paid, may make such rules, regulations, and orders as the Secretary may deem necessary or appropriate for carrying out the Secretary's functions under this section and, except as otherwise expressly provided in this chapter, may employ, utilize, compensate, and, to the extent not inconsistent with the Secretary's basic responsibilities under this chapter, delegate any of the Secretary's functions under this section to such persons and such corporate or other agencies, including agencies of the United States, as the Secretary may designate.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1208, § 1811; Pub. L. 86–665, § 2, July 14, 1960, 74 Stat. 531; Pub. L. 87–84, § 2, July 6, 1961, 75 Stat. 201; Pub. L. 88–402, Aug. 4, 1964, 78 Stat. 380; Pub. L. 89–358, § 5(e), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90–77, title IV, § 404, Aug. 31, 1967, 81 Stat. 190; Pub. L. 90–301, § 1(b), May 7, 1968, 82 Stat. 113; Pub. L. 91–22, § 3, June 6, 1969, 83 Stat. 32; Pub. L. 91–506, § 4, Oct. 23, 1970, 84 Stat. 1109; Pub. L. 92–66, Aug. 5, 1971, 85 Stat. 173; Pub. L. 93–569, § 4, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94–324, §§ 3, 7(12)–(15), June 30, 1976, 90 Stat. 720, 721; Pub. L. 95–476, title I, § 105(b), Oct. 18, 1978, 92 Stat. 1499; Pub. L. 96–385, title IV, §§ 401(c)(2), 402(b), Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97–295, § 4(65), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97–306, title IV, § 406(c)(1), Oct. 14, 1982, 96 Stat. 1445; Pub. L. 100–198, § 3(c), Dec. 21, 1987, 101 Stat. 1316; Pub. L. 100–322, title IV, § 415(c)(5), (d)(2) May 20, 1988, 102 Stat. 551, 552; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3711 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title VI, § 602(e)(1)(B), Nov. 11, 1998, 112 Stat. 3346.)

REFERENCES IN TEXT

Title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), referred to in subsec. (c)(2), probably means title III of Pub. L. 87–128, Aug. 8, 1961, 75 Stat. 307, as amended, known as the Consolidated Farm and Rural Development Act, which is classified principally to chapter 50 (§ 1921 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1921 of Title 7 and Tables.

The Housing Act of 1949, referred to in subsec. (c)(2), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. Title V of the Housing Act of 1949 is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (k). Pub. L. 105–368 struck out ''and section 3723 of this title'' after ''functions under this section'' in two places.

1991—Pub. L. 102–83, § 5(a), renumbered section 1811 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3710 or 3712'' for ''1810 or 1812''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3710 or 3712'' for ''1810 or 1812'', ''3710(a) or 3712'' for ''1810(a) or 1812'', and ''3710(a)(8) or 3712(a)(1)(F))'' for ''1810(a)(8) or 1812(a)(1)(F))''.

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3710 or 3712'' for ''1810 or 1812''.

Subsec. (d)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3712'' for ''1812'' and ''3710'' for ''1810'' in subpars. (A) and (B).

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a)'' for ''1810(a)''.

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted ''3710 or 3712'' for ''1810 or 1812''.

Subsec. (h). Pub. L. 102–83, § 5(c)(1), substituted ''3704'' for ''1804''.

Subsec. (k). Pub. L. 102–83, § 5(c)(1), substituted ''3723'' for ''1823'' in two places.

1989—Subsecs. (b) to (d)(1), (e) to (k). Pub. L. 101–237 substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

1988—Subsec. (a). Pub. L. 100–322, § 415(c)(5)(A), (d)(2)(A), substituted ''for purposes specified in section 1810 or 1812'' for ''under section 1810 or 1819''.

Subsec. (b). Pub. L. 100–322, § 415(c)(5), (d)(2)(A), substituted ''for purposes specified in section 1810 or 1812'' for ''under section 1810 or 1819'', ''section 1810(a) or 1812'' for ''section 1810(a) or 1819'', and ''section 1812(a)(1)(F)'' for ''section 1819(a)(1)(F)''.

Subsecs. (c)(1), (d)(2)(A). Pub. L. 100–322, § 415(c)(5)(A), substituted ''1812'' for ''1819''.

Subsec. (d)(2)(B). Pub. L. 100–322, § 415(c)(5)(A), (d)(2)(B), substituted ''1812'' for ''1819'' and ''for purposes specified in section 1810'' for ''under section 1810(c)''.

Subsec. (g). Pub. L. 100–322, § 415(c)(5)(A), (d)(2)(A), substituted ''for purposes specified in section 1810 or 1812'' for ''under section 1810 or 1819''.

1987—Subsec. (d)(2)(A). Pub. L. 100–198 substituted ''$36,000'' for ''$27,500'' in two places.

1982—Subsec. (c)(1). Pub. L. 97–306, § 406(c)(1), substituted ''manufactured home'' for ''mobile home''.

Subsec. (c)(2). Pub. L. 97–295, § 4(65)(A), substituted ''title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.)'' for ''sections 1000–1029 of title 7 or under sections 1471–1483 of title 42''.

Subsec. (d)(1). Pub. L. 97–306, § 406(c)(1), substituted ''manufactured home'' for ''mobile home''.

Subsec. (d)(2)(B). Pub. L. 97–295, § 4(65)(B), substituted ''October 18, 1978,'' for ''the date of the enactment of the Veterans' Housing Benefits Act of 1978''.

Subsec. (j). Pub. L. 97–295, § 4(65)(C), substituted ''percent'' for ''per centum'' wherever appearing.

1980—Subsec. (b). Pub. L. 96–385, § 401(c)(2), inserted ''(other than the refinancing of a loan under section 1810(a)(8) or 1819(a)(1)(F))'' after ''section 1810(a) or 1819 of this title''.

Subsec. (d)(2). Pub. L. 96–385, § 402(b), substituted in two places ''$27,500'' for ''$25,000'' in subpar. (A) and ''$20,000'' for ''$17,500'' in two places in subpar. (B).

1978—Subsec. (d)(2)(A). Pub. L. 95–476, § 105(b)(1), substituted ''$25,000'' for ''$17,500'' in two places.

Subsec. (d)(2)(B). Pub. L. 95–476, § 105(b)(2), substituted formula for determining maximum amount of original

principal of any loan made under this section for purposes of section 1819 of this title for provision that such original amount was not to exceed amount specified by Administrator pursuant to section 1819(d) of this title and inserted provision relating to amount of guaranty entitlement under section 1810(c) of this title.

1976—Subsec. (b). Pub. L. 94–324, § 7(12), substituted ''the Administrator shall'' for ''he shall'' and ''The Administrator'' for ''He''.

Subsec. (c). Pub. L. 94–324, § 7(13), substituted ''the veteran'' for ''he'' wherever appearing.

Subsec. (d)(2)(A). Pub. L. 94–324, § 3(1), substituted ''$33,000'' for ''$21,000'' wherever appearing and struck out provision authorizing Administrator to increase limitations specified upon finding that cost levels so required.

Subsec. (d)(3). Pub. L. 94–324, § 3(2), increased aggregate amount of loans that a veteran is eligible to receive under this section from $21,000 to $33,000 and struck out provision authorizing Administrator to increase specific limitations upon such loans.

Subsec. (g). Pub. L. 94–324, § 7(14), substituted ''the Administrator'' for ''him'' and ''he'' wherever appearing.

Subsec. (k). Pub. L. 94–324, § 7(15), substituted ''the Administrator's'' for ''his'' wherever appearing and ''as the Administrator'' for ''as he'' wherever appearing.

1974—Subsec. (d)(2)(A). Pub. L. 93–569 substituted ''$17,500'' for ''$12,500'' wherever appearing.

1971—Subsec. (g). Pub. L. 92–66 substituted provisions authorizing Administrator to sell loans at a price which he determines to be reasonable under prevailing conditions in the mortgage market when agreement to sell loan is made, for provisions authorizing Administrator to sell loans at a price which he determines to be reasonable but not less than 98 per centum of unpaid principal balance, plus full amount of accrued interest, and if loans are offered to an investor in a package or block of two or more loans at not less than 98 per centum of aggregate unpaid principal balance of loans included in such package or block, plus full amount of accrued interest.

1970—Subsec. (a). Pub. L. 91–506, § 4(1), substituted ''1810 or 1819'' for ''1810''.

Subsec. (b). Pub. L. 91–506, § 4(1), (2), substituted ''1810 or 1819'' for ''1810'' and provided that the Administrator make, or enter into commitments to make, to any eligible veteran, a loan for any of the purposes described in section 1819 dealing with loans to purchase mobile homes and lots as well as section 1810(a) dealing with the purchase or construction of homes.

Subsecs. (c)(1), (d)(1). Pub. L. 91–506, § 4(3), (4), inserted reference to mobile home loans.

Subsec. (d)(2)(A). Pub. L. 91–506, § 4(5), redesignated subsec. (d)(2) as subsec. (d)(2)(A) and substituted ''Except for any loan made under this chapter for the purposes described in section 1819 of this title, the'' for ''The''.

Subsec. (d)(2)(B). Pub. L. 91–506, § 4(6), inserted provision limiting the original principal amount of any loan made under this section for the purchase of mobile homes and mobile home lots under section 1819 of this title to the amount specified by the Administrator pursuant to subsec. (d) of section 1819.

Subsec. (g). Pub. L. 91–506, § 4(7), substituted ''1810 or 1819 of this title, as appropriate'' for ''1810 of this title''.

Subsec. (h). Pub. L. 91–506, § 4(8), substituted provisions permitting Administrator to exempt dwellings constructed through assistance provided by this section from the minimum land planning and subdivision requirements of this title so long as such dwellings meet minimum requirements of structural soundness and general acceptability for provisions establishing a direct loan expiration date by reference to those for guaranteed loans.

Subsec. (i). Pub. L. 91–506, § 4(8), substituted provisions authorizing, Administrator to make or enter into a commitment to make, loans to assist disabled veterans in acquiring specially adapted housing if they are eligible for provisions authorizing Administrator to reserve funds available for loans to enable veterans to purchase dwellings in a housing credit shortage area provided the builder pays a nonrefundable commitment fee, not to exceed 2 percent of the funds reserved, authorizing the Administrator to make advances during construction of the dwelling, authorizing the Administrator to permit a private lender to purchase such loan, and permitting the Administrator to exempt dwellings constructed through assistance provided by this subsec. from the minimum land planning and subdivision requirements of this title so long as such dwellings meet minimum requirements of structural soundness and general acceptability.

Subsec. (j). Pub. L. 91–506, § 4(8), substituted provisions authorizing Administrator to reserve funds available for loans to enable veterans to purchase housing in a housing credit shortage area, or in any area for a disabled veteran eligible for specially adapted housing, provided the builder pays a nonrefundable commitment fee, not to exceed 2 percent of the funds reserved and authorizing the Administrator to make advances during construction of the dwelling for provisions authorizing the Administrator to process loan applications notwithstanding the assistance of the Voluntary Home Mortgage Credit Committee in trying to place such loans with private lenders, authorizing the Administrator to complete the processing of such loan applications unless he is notified by such Committee that it was able to place any such loan with a private lender, and defining ''working days''.

1969—Subsec. (d)(2), (3). Pub. L. 91–22 substituted ''$21,000'' for ''$17,500'' wherever appearing.

1968—Subsec. (d)(2). Pub. L. 90–301 substituted ''$12,500'' for ''$7,500'' in two places.

1967—Subsec. (d)(2). Pub. L. 90–77, § 404(a), authorized an increase in amount of direct loan limits from $17,500 to $25,000 where Administrator finds cost levels so require.

Subsec. (d)(3). Pub. L. 90–77, § 404(b), authorized an increase in aggregate amount of direct loans to $25,000 where Administrator finds cost levels so require.

1966—Subsec. (d)(2), (3), Pub. L. 89–358 substituted ''$17,500'' for ''$15,000'' wherever appearing.

1964—Subsec. (g). Pub. L. 88–402 substituted provisions authorizing Administrator to sell loans at a price which he determines to be reasonable but not less than 98 per centum of unpaid principal balance, plus full amount of accrued interest, and if loans are offered to an investor in a package or block of two or more loans at not less than 98 per centum of aggregate unpaid principal balance of loans included in such package or block, plus full amount of accrued interest, for provisions which permitted Administrator to sell loans only at a price not less than par.

1961—Subsec. (d)(2), (3). Pub. L. 87–84, § 2(a), substituted ''$15,000'' for ''$13,500'' wherever appearing.

Subsec. (h). Pub. L. 87–84, § 2(b), substituted ''to any veteran after the expiration of his entitlement pursuant to section 1803(a)(3) of this title except pursuant to a commitment issued by the Administrator before such entitlement expires'' for ''after July 25, 1962, except pursuant to commitments issued by the Administrator before that date.''

1960—Subsec. (h). Pub. L. 86–665 substituted ''1962'' for ''1960''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(c) of Pub. L. 100–198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100–198, set out as a note under section 3703 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 401(c)(2) and 402(b) of Pub. L. 96–385 effective Oct. 7, 1980, and Oct. 1, 1980, respec-

tively, see section 601(b), (d) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95–476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 3 and 7(12)–(15) of Pub. L. 94–324 effective Oct. 1, 1976, and June 30, 1976, respectively, see section 9(a), (b) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–569 effective Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

§ 3712. Loans to purchase manufactured homes and lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

(A) To purchase a lot on which to place a manufactured home already owned by the veteran.

(B) To purchase a single-wide manufactured home.

(C) To purchase a single-wide manufactured home and a lot on which to place such home.

(D) To purchase a double-wide manufactured home.

(E) To purchase a double-wide manufactured home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for any of the purposes described in paragraph (1) of this subsection (other than the refinancing under clause (F) of such paragraph of an existing loan) may include an amount determined by the Secretary to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(3) Any loan made for the purposes described in clause (C), (E), or (G) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the manufactured home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same manufactured home or manufactured-home lot, or manufactured home and manufactured-home lot, as was the loan being refinanced;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loan;

(iv) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (I) the original guaranty amount of the loan being refinanced, or (II) 25 percent of the loan;

(v) the term of the loan may not exceed the original term of the loan being refinanced;

(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;

(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Secretary shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Secretary shall require.

(B) A loan to a veteran may be guaranteed by the Secretary under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 3702(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made for purposes specified in this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this

subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection or section 3710(a)(9)(B)(ii) of this title—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran (except as provided in section 3704(c)(2) of this title) as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Secretary to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 3703(c)(3)(E) of this title) as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection or section 3710(a)(9)(B)(ii) of this title, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Secretary under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 3702(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement for purposes specified in this section for the purchase of a manufactured home unit shall preclude the use of remaining entitlement for the purchase of an additional manufactured home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Secretary shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 3702(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Secretary for approval prior to the closing of the loan, except that the Secretary may exempt any lender of a class listed in section 3702(d) of this title from compliance with such prior approval requirement if the Secretary determines that the experience of such lender or class of lenders in manufactured home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty for purposes specified in this section, the Secretary shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3)(A) The Secretary's guaranty may not exceed the lesser of (i) the lesser of $20,000 or 40 percent of the loan, or (ii) the maximum amount of the guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection.

(B) A claim under the Secretary's guaranty shall, at the election of the holder of a loan, be made by the filing of an accounting with the Secretary—

(i) within a reasonable time after the receipt by such holder of an appraisal by the Secretary of the value of the security for the loan; or

(ii) after liquidation of the security for the loan.

(C) If the holder of a loan applies for payment of a claim under clause (i) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

(i) the amount equal to the excess, if any, of the total indebtedness over the amount of the appraisal referred to in such clause; or

(ii) the amount equal to the guaranty under this section.

(D) If the holder of a loan files for payment of a claim under clause (ii) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

(i) the amount equal to the excess, if any, of the total indebtedness over the greater of the value of the property securing the loan, as determined by the Secretary, or the amount of the liquidation or resale proceeds; or

(ii) the amount equal to the guaranty under this section.

(E) In any accounting filed pursuant to subparagraph (B)(ii) of this paragraph, the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.

(F) The liability of the United States under the guaranty provided for by this paragraph shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The maximum amount of guaranty entitlement available to a veteran for purposes specified in this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran. Use of entitlement for purposes specified in section 3710 or 3711 of this title shall reduce entitlement available for use for purposes specified in this section to the same extent that entitlement available for purposes specified in such section 3710 is reduced below $20,000.

(5) The amount of any loan guaranteed for purposes specified in this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.

(d)(1) The maturity of any loan guaranteed for purposes specified in this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

(i) a single-wide manufactured home; or

(ii) a single-wide manufactured home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Secretary, under regulations which the Secretary shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(e) No loan shall be guaranteed for purposes specified in this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined in accordance with the regulations prescribed under section 3710(g) of this title and taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the manufactured home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new manufactured home, such cost factors as the Secretary considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used manufactured home, the reasonable value of the property, as determined by the Secretary;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Secretary; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Secretary;

(5) the veteran certifies, in such form as the Secretary shall prescribe, that the veteran will personally occupy the property as the veteran's home; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 3704(c)(2);

(6) the manufactured home is or will be placed on a site which meets specifications which the Secretary shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Secretary.

(f) The Secretary shall establish such rate of interest for manufactured home loans and manufactured home lot loans as the Secretary determines to be necessary in order to assure a reasonable supply of manufactured home loan financing for veterans for purposes specified in this section.

(g) The Secretary shall promulgate such regulations as the Secretary determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Secretary determines should be applicable to loans guaranteed or made for purposes specified in this section. The Secretary shall have such powers and responsibilities in respect to matters arising under this section as the Secretary has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a manufactured home shall be guaranteed for purposes specified in this section unless the manufactured home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Secretary and no loan for the purchase of a lot on which to place a manufactured home owned by a veteran shall be guaranteed for purposes specified in this section unless the lot meets such standards prescribed for manufactured home lots. Such standards shall be designed to encourage the maintenance and development of sites for manufactured homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).

(i) The Secretary shall require the manufacturer to become a warrantor of any new manufactured home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Secretary shall require. Such warranty shall include (1) a specific statement that the manufactured home meets the standards prescribed by the Secretary pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Secretary is authorized to deny guaranteed or direct loan financing in the case of—

(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.

(k) Subject to notice and opportunity for a hearing, the Secretary may refuse to approve as acceptable any site in a manufactured home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Secretary to be unfair or prejudicial to veterans renting or purchasing such sites. The Secretary may also refuse to guarantee or make direct loans for veterans to purchase manufactured homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Secretary determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(*l*) The provisions of sections 3704(d) and 3721 of this title shall be fully applicable to lenders making guaranteed manufactured home loans and manufactured home lot loans and holders of such loans.

(Added Pub. L. 91–506, § 5, Oct. 23, 1970, 84 Stat. 1110, § 1819; amended Pub. L. 93–569, § 5, Dec. 31, 1974, 88 Stat. 1864; Pub. L. 94–324, §§ 5, 7(20)–(23), June 30, 1976, 90 Stat. 720, 722; Pub. L. 95–476, title I, § 107, Oct. 18, 1978, 92 Stat. 1500; Pub. L. 96–385, title IV, §§ 401(b), 402(c), Oct. 7, 1980, 94 Stat. 1532, 1533; Pub. L. 97–66, title V, § 503, Oct. 17, 1981, 95 Stat. 1032; Pub. L. 97–72, title III, § 303(h), (i), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97–295, § 4(66), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97–306, title IV, § 406(a), (c)(2), Oct. 14, 1982, 96 Stat. 1444, 1445; Pub. L. 98–223, title II, § 205(b), Mar. 2, 1984, 98 Stat. 43; Pub. L. 99–576, title IV, § 402(c)(2), Oct. 28, 1986, 100 Stat. 3281; Pub. L. 100–198, §§ 3(b), 7(b), 8(b), Dec. 21, 1987, 101 Stat. 1315, 1318, 1320; Pub. L. 100–253, § 3(b), Feb. 29, 1988, 102 Stat. 20; renumbered § 1812 and amended Pub. L. 100–322, title IV, § 415(b)(4), May 20, 1988, 102 Stat. 551; Pub. L. 101–237, title III, § 313(b)(1), (7), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 101–508, title VIII, § 8031(a), Nov. 5, 1990, 104 Stat. 1388–348; Pub. L. 102–54, § 14(c)(8), June 13, 1991, 105 Stat. 285; renumbered § 3712 and amended Pub. L. 102–83, §§ 4(a)(2)(A)(v), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 102–547, § 6(2), Oct. 28, 1992, 106 Stat. 3636; Pub. L. 103–446, title IX, § 906, title XII, § 1201(e)(14), Nov. 2, 1994, 108 Stat. 4677, 4685; Pub. L. 104–66, title I, § 1141(b), Dec. 21, 1995, 109 Stat. 726.)

AMENDMENTS

1995—Subsecs. (*l*), (m). Pub. L. 104–66 redesignated subsec. (m) as (*l*) and struck out former subsec. (*l*) which read as follows: "The Secretary's annual report to Congress shall include a report on operations under this section, including experience with compliance with the warranty required by subsection (i) and the experience regarding defaults and foreclosures."

1994—Subsec. (c)(3)(D). Pub. L. 103–446, § 1201(e)(14)(A)(i), inserted "of" after "subparagraph (B)" in introductory provisions.

Subsec. (c)(3)(E). Pub. L. 103–446, § 1201(e)(14)(A)(ii), substituted "subparagraph (B)(ii) of this paragraph" for "subparagraph (B)(ii) of this subsection".

Subsec. (h)(2). Pub. L. 103–446, § 906(a), amended par. (2) generally. Prior to amendment, par. (2) required the Secretary to inspect the manufacturing process of manufacturers of manufactured homes sold to veterans and provided for the delegation of that function to the Secretary of Housing and Urban Development.

Subsec. (j). Pub. L. 103–446, § 906(b), substituted "in the case of—" and pars. (1) to (3) for "in the case of manufactured homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Secretary not to conform to the aforesaid standards; or where the manufacturer of manufactured homes fails or is unable to discharge the manufacturer's obligations under the warranty."

Subsec. (*l*). Pub. L. 103–446, § 906(c), struck out "the results of inspections required by subsection (h) of this section," after "including" and "of this section" after "subsection (i)".

Subsec. (m). Pub. L. 103–446, § 1201(e)(14)(B), substituted "sections 3704(d) and 3721 of this title" for "section 3704(d) and section 3721 of this chapter".

1992—Subsec. (a)(4)(A)(iv). Pub. L. 102–547 amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: "the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;".

1991—Pub. L. 102–83, § 5(a), renumbered section 1812 of this title as this section.

Subsec. (a)(4)(A)(iii). Pub. L. 102–83, § 5(c)(1), substituted "3703(c)(3)(A)" for "1803(c)(3)(A)".

Subsec. (a)(4)(B). Pub. L. 102–83, § 5(c)(1), substituted "3702(b)" for "1802(b)".

Pub. L. 102–83, § 4(a)(2)(A)(v), substituted "Secretary" for "Veterans' Administration".

Subsec. (a)(5)(A). Pub. L. 102–83, § 5(c)(1), substituted "3710(a)(9)(B)(ii)" for "1810(a)(9)(B)(ii)" in introductory provisions, "3704(c)(2)" for "1804(c)(2)" in cl. (i), and "3703(c)(3)(E)" for "1803(c)(3)(E)" in cl. (ii)(IV).

Subsec. (a)(5)(B). Pub. L. 102–83, § 5(c)(1), substituted "3710(a)(9)(B)(ii)" for "1810(a)(9)(B)(ii)" and "3702(b)" for "1802(b)".

Pub. L. 102–83, § 4(a)(2)(A)(v), substituted "Secretary" for "Veterans' Administration".

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted "3702(b)" for "1802(b)".

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted "3702(d)" for "1802(d)".

Subsec. (c)(4). Pub. L. 102–83, § 5(c)(1), substituted "3710 or 3711" for "1810 or 1811" and "3710" for "1810".

Subsec. (c)(5). Pub. L. 102–54, § 14(c)(8)(A), substituted "for purposes specified in this section" for "under this section".

Subsec. (e)(2). Pub. L. 102–83, § 5(c)(1), substituted "3710(g)" for "1810(g)".

Subsec. (e)(5). Pub. L. 102–83, § 5(c)(1), substituted "3704(c)(2)" for "1804(c)(2)".

Subsec. (*l*). Pub. L. 102–54, § 14(c)(8)(B), struck out ", beginning 12 months following October 23, 1970," after "shall".

Subsec. (m). Pub. L. 102–83, § 5(c)(1), substituted "3704(d)" for "1804(d)" and "3721" for "1821".

1990—Subsec. (c)(3). Pub. L. 101–508 amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''The Secretary's guaranty may not exceed the lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Secretary. In any such accounting the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.''

1989—Subsecs. (a) to (h)(2)(A). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

Subsec. (h)(2)(B). Pub. L. 101–237, § 313(b)(7), substituted ''Secretary of Housing and Urban Development pursuant'' for ''Secretary pursuant'' and substituted ''Secretary of Veterans Affairs'' for ''Administrator'' wherever appearing.

Subsecs. (i) to (*l*). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

1988—Pub. L. 100–322, § 415(b)(4)(C), renumbered section 1819 of this title as this section.

Subsecs. (a)(4)(C), (b)(1), (c)(2). Pub. L. 100–322, § 415(b)(4)(A), substituted ''for purposes specified in this section'' for ''under this section''.

Subsec. (c)(3). Pub. L. 100–322, § 415(b)(4)(B)(i), inserted ''as specified in paragraph (4) of this subsection'' before period at end.

Pub. L. 100–253, § 3(b)(1), substituted ''the lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran'' for ''40 percent of the loan, or $20,000, whichever is less, reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title''.

Subsec. (c)(4). Pub. L. 100–322, § 415(b)(4)(A), (B)(ii), (iii), substituted ''for purposes specified in this section'' for ''under this section'' in two places, ''for purposes specified in section 1810'' for ''under section 1810'', and ''for purposes specified in such section 1810'' for ''under such section 1810''.

Pub. L. 100–253, § 3(b)(2), substituted ''maximum amount of guaranty entitlement available to a veteran under this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran'' for ''amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing such loan''.

Subsec. (c)(5). Pub. L. 100–253, § 3(b)(3), added par. (5).

Subsecs. (d)(1), (e) to (g), (h)(1). Pub. L. 100–322, § 415(b)(4)(A), substituted ''for purposes specified in this section'' for ''under this section''.

1987—Subsec. (a)(4)(A)(ii). Pub. L. 100–198, § 7(b)(1), struck out ''and such manufactured home (or a manufactured home on such lot) must be owned and occupied by the veteran as such veteran's home'' before semicolon at end.

Subsec. (a)(4)(A)(vi). Pub. L. 100–198, § 7(b)(2)–(4), added cl. (vi).

Subsec. (a)(5)(A)(i). Pub. L. 100–198, § 8(b)(1), inserted ''(except as provided in section 1804(c)(2) of this title)'' after ''by the veteran''.

Subsec. (c)(3). Pub. L. 100–198, § 3(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: ''The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $20,000.''

Subsec. (c)(4). Pub. L. 100–198, § 3(b)(2), amended first sentence generally. Prior to amendment, first sentence read as follows: ''The amount of guaranty entitlement available to a veteran under this section shall not be more than $20,000, less the amount of any such entitlement as may have been used under this section.''

Subsec. (e)(5). Pub. L. 100–198, § 8(b)(2), inserted before semicolon at end ''; except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2)''.

1986—Subsec. (e)(2). Pub. L. 99–576 inserted ''as determined in accordance with the regulations prescribed under section 1810(g) of this title and'' after ''credit risk''.

1984—Subsec. (a)(5). Pub. L. 98–223 inserted ''or section 1810(a)(9)(B)(ii) of this title'' after ''paragraph (1)(G) of this subsection'' in two places.

1982—Pub. L. 97–306, § 406(c)(2)(C), substituted ''Loans to purchase manufactured homes and lots'' for ''Loans to purchase mobile homes and mobile home lots'' in section catchline.

Subsec. (a)(1)(A) to (E). Pub. L. 97–306, § 406(c)(2)(A), substituted ''manufactured'' for ''mobile'' wherever appearing.

Subsec. (a)(1)(G). Pub. L. 97–306, § 406(a)(1), added cl. (G).

Subsec. (a)(2). Pub. L. 97–306, § 406(a)(2), (c)(2)(A), inserted ''(other than the refinancing under clause (F) of such paragraph of an existing loan)'' after ''subsection'' and substituted ''manufactured'' for ''mobile''.

Subsec. (a)(3). Pub. L. 97–306, § 406(a)(3), (c)(2)(A), substituted ''(C), (E), or (G)'' for ''(C) or (E)'', and ''manufactured'' for ''mobile''.

Subsec. (a)(4)(A)(ii). Pub. L. 97–306, § 406(c)(2)(A), (B), substituted ''manufactured'' for ''mobile'', wherever appearing and ''manufactured-home'' for ''mobile-home'' wherever appearing.

Subsec. (a)(5). Pub. L. 97–306, § 406(a)(4), added par. (5).

Subsecs. (b)(1), (c)(1), (d)(1)(B), (C), (D), (e)(3), (4)(A), (B), (6), (f), (h) to (k). Pub. L. 97–306, § 406(c)(2)(A), substituted ''manufactured'' for ''mobile'' wherever appearing.

Subsec. (*l*). Pub. L. 97–295 substituted ''October 23, 1970'' for ''the date of enactment of the Veterans' Housing Act of 1970''.

Subsec. (m). Pub. L. 97–306, § 406(c)(2)(A), substituted ''manufactured'' for ''mobile'' wherever appearing.

1981—Subsec. (a)(1). Pub. L. 97–72, § 303(h), substituted ''housing loan benefits'' for ''benefits''.

Subsec. (b)(2). Pub. L. 97–72, § 303(i), substituted ''housing loan benefits'' for ''loan guaranty benefits''.

Subsec. (d)(1). Pub. L. 97–66 increased from 15 years, 32 days to 20 years, 32 days the allowable maturity of a loan for purchase of a single-wide mobile home or a single-wide mobile home and a lot, from 20 years, 32 days to 23 years, 32 days the allowable maturity of a loan for purchase of a double-wide mobile home, and from 20 years, 32 days to 25 years, 32 days the allowable maturity of a loan for purchase of a double-wide mobile home and a lot.

1980—Subsec. (a)(1)(F). Pub. L. 96–385, § 401(b)(1), added cl. (F).

Subsec. (a)(4). Pub. L. 96–385, § 401(b)(2), added par. (4).

Subsec. (c)(3), (4). Pub. L. 96–385, § 402(c), substituted ''$20,000'' for ''$17,500'' once in par. (3) and twice in par. (4).

1978—Subsec. (a). Pub. L. 95–476, § 107(a), substituted provisions that loans to eligible veterans could be guaranteed if such loans were for certain approved purposes, that such loans for any approved purpose could include an amount determined by the Administrator to be appropriate to cover the cost of necessary lot preparation, and that any loan under cls. (C) or (E) of par. (1) were to be considered one loan, evidenced either by a single instrument or separate instruments for the por-

tions of the loan financing the purchase of the mobile home and the purchase and preparation of the lot for provision that any eligible veteran who had maximum entitlement available for use would be eligible for either the mobile home loan guaranty benefit or the mobile home lot loan guaranty benefit or both but that use of either would preclude use of any home loan guaranty entitlement under any other section until the loan guaranteed under this section had been paid in full.

Subsec. (b)(1). Pub. L. 95–476, § 107(a), substituted provision that use of benefit entitlement under this section for purchase of a mobile home unit would preclude use of any remainder of entitlement for purchase of an additional mobile home unit until the first unit had been disposed of or destroyed by natural hazard for provision that a loan to purchase a mobile home under this section could include amounts to finance purchase of lot and necessary preparation of lot.

Subsec. (b)(2). Pub. L. 95–476, § 107(a), substituted provision authorizing Administrator to restore full benefit entitlement to a veteran under this chapter when conditions prescribed in section 1802(b) of this title had been met for provision authorizing loans to purchase and prepare a mobile home lot when veteran already owned such a mobile home.

Subsec. (c)(1). Pub. L. 95–476, § 107(b)(1), struck out provisions relating to eligible purposes of mobile home loans under this section.

Subsec. (c)(3). Pub. L. 95–476, § 107(b)(2), substituted provision limiting liability of Administrator under loan guaranty to a maximum of lesser of 50 per centum of loan amount or maximum loan guaranty entitlement available, not to exceed $17,500, for provision limiting Administrator's guaranty to a maximum of 50 per centum of loan amount.

Subsec. (c)(4). Pub. L. 95–476, § 107(b)(3), added par. (4).

Subsec. (d). Pub. L. 95–476, § 107(c), struck out provisions establishing maximum loan amounts for guaranteed mobile home loans and increased maturity for single-wide mobile home loans and lot-only loans from 12 years and 32 days to 15 years and 32 days.

Subsec. (e)(4). Pub. L. 95–476, § 107(d), substituted provisions authorizing Administrator to determine reasonable maximum loan amounts for purchase of new or used mobile homes and purchase and preparation of mobile home lots for provision requiring, as a condition to guaranty, that loans not exceed certain maximum loan amounts for such purchases or preparation.

Subsec. (g). Pub. L. 95–476, § 107(e), redesignated subsec. (h) as (g). Former subsec. (g), limiting to a single time the restoration of loan guaranty entitlement for any veteran for the purchase of a mobile home, was struck out.

Subsec. (h)(1). Pub. L. 95–476, § 107(e), (f), redesignated subsec. (i) as (h)(1) and struck out provision authorizing the Administrator to inspect the mobile home manufacturing process periodically as well as on-site inspections of existing mobile home units to assure compliance with certain standards of planning, construction, and general acceptability. Former subsec. (h) redesignated (g).

Subsec. (h)(2). Pub. L. 95–476, § 107(f), added par. (2).

Subsec. (i). Pub. L. 95–476, § 107(e), (g)(1), redesignated subsec. (j) as (i) and substituted ''subsection (h)'' for ''subsection (i)''. Former subsec. (i) redesignated (h).

Subsec. (j). Pub. L. 95–476, § 107(e), (g)(1), redesignated subsec. (k) as (j) and substituted ''subsection (h)'' for ''subsection (i)''. Former subsec. (j) redesignated (i).

Subsec. (k). Pub. L. 95–476, § 107(e), redesignated subsec. (*l*) as (k). Former subsec. (k) redesignated (j).

Subsec. (*l*). Pub. L. 95–476, § 107(e), (g), redesignated subsec. (m) as (*l*) and substituted ''subsection (h)'' and ''subsection (i)'' for ''subsection (i)'' and ''subsection (j)'', respectively. Former subsec. (*l*) redesignated (k).

Subsecs. (m), (n). Pub. L. 95–476, § 107(e), redesignated subsec. (n) as (m). Former subsec. (m) redesignated (*l*).

1976—Subsec. (c)(1). Pub. L. 94–324, § 7(20), substituted ''the Administrator determines'' for ''he determines''.

Subsec. (c)(3). Pub. L. 94–324, §§ 5, 7(20), increased amount of Administrator's guaranty from 30 per centum of the loan to 50 per centum of the loan and substituted ''the Administrator'' for ''he'' wherever appearing.

Subsec. (d)(1). Pub. L. 94–324, § 7(21), substituted ''the Administrator's'' for ''his''.

Subsec. (d)(3). Pub. L. 94–324, § 7(21), substituted ''the Administrator shall'' for ''he shall''.

Subsec. (e)(4). Pub. L. 94–324, § 7(22), substituted ''subsection'' for ''subparagraph''.

Subsec. (e)(5). Pub. L. 94–324, § 7(22), substituted ''the veteran will'' for ''he will'' and ''the veteran's'' for ''his''.

Subsec. (f). Pub. L. 94–324, § 7(23), substituted ''the Administrator determines'' for ''he determines''.

Subsec. (h). Pub. L. 94–324, § 7(23), substituted ''the Administrator determines'' for ''he determines'' in two places and ''the Administrator has'' for ''he has''.

Subsec. (k). Pub. L. 94–324, § 7(23), substituted ''the manufacturer's obligations'' for ''his obligations''.

Subsec. (*l*). Pub. L. 94–324, § 7(23), substituted ''the Administrator determines'' for ''he determines''.

1974—Subsec. (a). Pub. L. 93–569, § 5(1), inserted ''or the mobile home lot loan guaranty benefit, or both,'' after ''loan guaranty benefit'' wherever appearing, and struck out ''mobile home'' before ''loan guaranteed under this section''.

Subsec. (b)(1). Pub. L. 93–569, § 5(2), designated existing provisions as subsec. (b)(1) and redesignated cls. (1) and (2) as (A) and (B), respectively.

Subsec. (b)(2). Pub. L. 93–569, § 5(2), added par. (2).

Subsec. (c)(1). Pub. L. 93–569, § 5(3), (4), redesignated cls. (1) and (2) as (A) and (B), respectively, and in cl. (A) as so redesignated, inserted provision relating to purchase of a lot on which to place a mobile home previously purchased by the veteran, whether or not such mobile home was purchased with a loan guaranteed, insured or made by another Federal agency, and substituted ''or for the purchase of a used mobile home which meets or exceeds minimum requirements for construction, design, and general acceptability prescribed by the Administrator,'' for ''or for the purchase of a used mobile home which is the security for a prior loan guaranteed or made under this section or for a loan guaranteed, insured or made by another Federal agency.''

Subsec. (d)(1). Pub. L. 93–569, § 5(5), substituted '', whether or not the mobile home was financed with assistance under this section, and in the case of necessary site preparation, the loan amount for such purposes may not exceed the reasonable value of such lot'' for ''financed through the assistance of this section and in the case of necessary site preparation, the loan amount shall not be increased by an amount in excess of the reasonable value of such lot''.

Subsec. (d)(2)(A). Pub. L. 93–569, § 5(6), substituted ''$12,500'' for ''$10,000,'' and ''single wide mobile home only'' for ''mobile home only,''.

Subsec. (d)(2)(B). Pub. L. 93–569, § 5(6), increased from $15,000 to $20,000, and from fifteen years and thirty-two days to twenty years and thirty-two days the amount and period of the loan, struck out the $10,000 maximum allowable amount for the mobile home, and restricted the amount of the loan to the purchase of a double-wide mobile home instead of a mobile home and undeveloped lot.

Subsec. (d)(2)(C). Pub. L. 93–569, § 5(6), substituted ''$20,000'' for ''$17,500,'' ''$12,500'' for ''$10,000,'' ''single-wide mobile home'' for ''mobile home'' and ''an undeveloped lot'' for ''a suitably developed lot,'' and inserted provision including such amount as is appropriate to cover cost of site preparation.

Subsec. (d)(2)(D) to (H). Pub. L. 93–569, § 5(6), added subpars. (D) to (H).

Subsec. (e)(3). Pub. L. 93–569, § 5(7), inserted ''purchased with the proceeds of the loan and on'' after ''mobile home''.

Subsec. (f). Pub. L. 93–569, § 5(8), inserted ''and mobile home lot loans'' after ''loans''.

Subsec. (i). Pub. L. 93–569, § 5(9), inserted provision prohibiting the guarantee of a loan for the purchase of

a lot on which to place a mobile home unless the lot meets prescribed standards.

Subsec. (n). Pub. L. 93–569, § 5(10), inserted ''and mobile home lot loans'' after ''mobile home loans''.

Subsec. (*o*). Pub. L. 93–569, § 5(11), struck out subsec. (*o*) which prohibited the making or guaranteeing of loans on and after July 1, 1975, except upon prior commitment.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8031(b) of Pub. L. 101–508 provided that: ''The amendment made by this section [amending this section] shall apply to claims filed with the Secretary of Veterans Affairs on or after the date of the enactment of this Act [Nov. 5, 1990].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–253 applicable to loans closed on or after Feb. 1, 1988, except for loans for which guaranty commitment was made on or before Dec. 31, 1987, see section 3(c) of Pub. L. 100–253, set out as a note under section 3703 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(b) of Pub. L. 100–198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100–198, set out as a note under section 3703 of this title.

Amendment by section 7(b) of Pub. L. 100–198 applicable to loans made more than 30 days after Dec. 21, 1987, see section 7(d) of Pub. L. 100–198, set out as a note under section 3710 of this title.

Amendment by section 8(b) of Pub. L. 100–198 applicable with respect to loans made more than 30 days after Dec. 21, 1987, see section 8(c) of Pub. L. 100–198, set out as a note under section 3704 of this title.

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97–72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97–72, set out as an Effective Date note under section 3741 of this title.

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 401(b) and 402(c) of Pub. L. 96–385 effective Oct. 7, 1980, and Oct. 1, 1980, respectively, see section 601(b), (d) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95–476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by sections 5 and 7(20)–(23) of Pub. L. 94–324 effective July 1, 1976, and June 30, 1976, respectively, see section 9(a), (b) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–569 effective Dec. 31, 1974, see section 10 of Pub. L. 93–569, set out as a note under section 3702 of this title.

EFFECTIVE DATE

Section 8 of Pub. L. 91–506 provided that: ''Section 5 of this Act [enacting this section] shall become effective sixty days following the date of enactment [Oct. 23, 1970].''

§ 3713. Release from liability under guaranty

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran, the Secretary, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Secretary on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Secretary has determined, after such investigation as the Secretary may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible for purposes specified in section 3710 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Secretary on account of the loan, the Secretary may relieve the veteran of such liability if the Secretary determines, after such investigation as the Secretary deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Secretary would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Secretary for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under section 5302(b) of this title, if the veteran is eligible for relief under that section.

(c) This section shall apply only to loans for which commitments are made before March 1, 1988.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1212, § 1817; Pub. L. 92–328, title II, § 204, June 30, 1972, 86 Stat. 397; Pub. L. 94–324, § 7(18), (19), June 30, 1976, 90 Stat. 722; Pub. L. 97–72, title III, § 303(f), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 100–198, § 10(a)(2), Dec. 21, 1987, 101 Stat. 1323; renumbered § 1813 and amended Pub. L. 100–322, title IV, § 415(b)(2), May 20, 1988, 102 Stat. 550; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3713 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105

Stat. 406; Pub. L. 103–446, title XII, § 1201(e)(15), Nov. 2, 1994, 108 Stat. 4686.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–446 before period at end substituted ''section 5302(b) of this title, if the veteran is eligible for relief under that section'' for ''subsection 5302(b) of this title, if eligible thereunder''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1813 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3710'' for ''1810''.

Subsec. (b). Pub. L. 102–40 substituted ''5302(b)'' for ''3102(b)''.

1989—Subsecs. (a), (b). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Pub. L. 100–322, § 415(b)(2)(B), renumbered section 1817 of this title as this section.

Subsec. (a). Pub. L. 100–322, § 415(b)(2)(A), substituted ''for purposes specified in section 1810'' for ''under section 1810''.

1987—Subsec. (c). Pub. L. 100–198 added subsec. (c).

1981—Subsec. (a). Pub. L. 97–72, § 303(f)(1), substituted ''direct housing loan'' for ''direct loan''.

Subsec. (b). Pub. L. 97–72, § 303(f)(2), substituted ''or direct housing loan obtained'' for ''or direct loan obtained''.

1976—Subsec. (a). Pub. L. 94–324, § 7(18), substituted ''the veteran'' for ''him'' in two places, ''the Administrator may deem'' for ''he may deem'', ''the transferee were a veteran'' for ''he were a veteran'', ''the transferee has assumed'' for ''he has assumed'', and ''is obligated'' for ''has obligated himself''.

Subsec. (b). Pub. L. 94–324, § 7(19), substituted ''obtained by the veteran'' for ''obtained by him'', ''the Administrator determines'' for ''he determines'', and ''the Administrator deems'' for ''he deems''.

1972—Pub. L. 92–328 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97–72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(c) of Pub. L. 92–328 provided that: ''Sections 201 through 206 of this Act [amending this section and sections 210, 1820 [now 3720], 3102 [now 5302], and 3503 [now 6103] of this title, and enacting provisions set out as a note under section 5302 of this title] shall take effect upon the date of enactment of this Act [June 30, 1972].''

§ 3714. Assumptions; release from liability

(a)(1) Except as provided in subsection (f) of this section, if a veteran or any other person disposes of residential property securing a loan guaranteed, insured, or made under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Secretary with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—

(A) the loan is current; and

(B) the purchaser of the property from such veteran or other person—

(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 3710 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Secretary shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 3702.

(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

(A) notify the transferor and the Secretary of such determination; and

(B) notify the transferor that the transferor may appeal the determination to the Secretary.

(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Secretary shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Secretary made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Secretary shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Secretary.

(B)(i) If the Secretary determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Secretary with respect to such loan.

(ii) If the Secretary determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Secretary may direct the holder to approve the assumption of the loan if—

(I) the Secretary determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Department and the transferor;

(II) the transferor has requested, within 15 days after receiving the notice referred to in

subparagraph (A) of this paragraph, that the Secretary approve the assumption; and

(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

(C) If—

(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Secretary of such action.

(2) If the holder fails to notify the Secretary in such a case, the holder shall be liable to the Secretary for any damage sustained by the Secretary as a result of the holder's failure, as determined at the time the Secretary is required to make payments in accordance with any insurance or guaranty provided by the Secretary with respect to the loan concerned.

(d) With respect to a loan guaranteed, insured, or made under this chapter, the Secretary shall provide, by regulation, that at least one instrument evidencing either the loan or the mortgage or deed of trust therefor, shall conspicuously contain, in such form as the Secretary shall specify, a notice in substantially the following form: ''This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent''.

(e) The Secretary shall establish in regulations a reasonable amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

(f)(1) This section shall apply—

(A) in the case of loans other than loans to finance the purchase of real property described in section 3733(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

(B) in the case of loans to finance the purchase of such property, only to loans which are closed after January 1, 1989.

(2) This section shall not apply to a loan which the Secretary has sold without recourse.

(Added Pub. L. 100–198, § 10(a)(1), Dec. 21, 1987, 101 Stat. 1321, § 1817A; renumbered § 1814, Pub. L. 100–322, title IV, § 415(b)(2)(B), May 20, 1988, 102 Stat. 551; amended Pub. L. 100–689, title III, § 302, Nov. 18, 1988, 102 Stat. 4176; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3714 and amended Pub. L. 102–83, §§ 4(a)(2)(B)(iv), (3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 404, 406; Pub. L. 105–368, title X, § 1005(b)(10), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107–103, title IV, § 403, Dec. 27, 2001, 115 Stat. 993.)

AMENDMENTS

2001—Subsec. (d). Pub. L. 107–103 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The Secretary shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Secretary shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and ½ times larger than the regular type on such page the following: 'This loan is not assumable without the approval of the Department of Veterans Affairs or its authorized agent.'.''

1998—Subsec. (f)(1)(B). Pub. L. 105–368 substituted ''after January 1, 1989'' for ''more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1814 of this title as this section.

Subsec. (a)(1)(B)(ii). Pub. L. 102–83, § 5(c)(1), substituted ''3710'' for ''1810''.

Subsec. (a)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3702'' for ''1802''.

Subsec. (a)(4)(B)(ii)(I). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d). Pub. L. 102–83, § 4(a)(2)(B)(iv), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

Subsec. (f)(1)(A). Pub. L. 102–83, § 5(c)(1), substituted ''3733(a)(1)'' for ''1833(a)(1)''.

1989—Subsecs. (a), (c) to (f). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Pub. L. 100–322, § 415(b)(2)(B), renumbered section 1817A of this title as this section.

Subsec. (a)(1). Pub. L. 100–689, § 302(1), substituted ''Except as provided in subsection (f) of this section, if'' for ''If'' and ''loan guaranteed, insured, or made'' for ''guaranteed, insured, or direct housing loan obtained by a veteran''.

Subsec. (f). Pub. L. 100–689, § 302(2), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''This section shall apply only to loans for which commitments are made on or after March 1, 1988.''

[§§ 3715 to 3719. Vacant]

CODIFICATION

Prior to renumbering of sections 1801 to 1851 of this chapter as sections 3701 to 3751 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, sections 1815 to 1817A and 1819 of this chapter were renumbered and section 1818 of this chapter was repealed.

Section 1815 was renumbered section 1803(a)(2) of this title.

Section 1816 was renumbered sections 1832 and 1833 of this title.

Section 1817 was renumbered section 1813 of this title.

Section 1817A was renumbered section 1814 of this title.

Section 1818, added Pub. L. 89–358, § 5(a), Mar. 3, 1966, 80 Stat. 25; amended Pub. L. 91–506, § 2(e), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93–569, § 8(6), (7), Dec. 31, 1974, 88 Stat. 1866, 1867; Pub. L. 94–324, § 4, June 30, 1976, 90 Stat.

720; Pub. L. 95–476, title I, § 106(a), Oct. 18, 1978, 92 Stat. 1499; Pub. L. 97–72, title III, § 303(g), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97–295, § 4(66), Oct. 12, 1982, 96 Stat. 1310, which related to service after Jan. 31, 1955, and prior to Aug. 5, 1964, or after May 7, 1975, was repealed by Pub. L. 100–322, title IV, § 415(b)(3), May 20, 1988, 102 Stat. 551.

Section 1819 was renumbered section 1812 of this title.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3720. Powers of Secretary

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Secretary may—

(1) sue and be sued in the Secretary's official capacity in any court of competent jurisdiction, State or Federal, but nothing in this clause shall be construed as authorizing garnishment or attachment against the Secretary, the Department of Veterans Affairs, or any of its employees;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as the Secretary determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property. Without regard to section 3302(b) of title 31 or any other provision of law not expressly in limitation of this paragraph, the Secretary may permit brokers utilized by the Secretary in connection with such properties to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the management, repair, sale, or lease of any such properties and remit the net balances to the Secretary.

(b) The powers granted by this section may be exercised by the Secretary without regard to any other provision of law not enacted expressly in limitation of this section, which otherwise would govern the expenditure of public funds, except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.

(c) The financial transactions of the Secretary incident to, or arising out of, the guaranty or insurance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410(c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

[(e) Repealed. Pub. L. 105–368, title VI, § 602(c)(1), Nov. 11, 1998, 112 Stat. 3346.]

(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Secretary under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forebearance or indulgence to such owner as the Secretary determines to be warranted by the facts of the case and the circumstances of such owner.

(g) The Secretary shall, at the request of the Secretary of Housing and Urban Development and without reimbursement, certify to such Secretary whether an applicant for assistance under any law administered by the Department of Housing and Urban Development is a veteran.

(h)(1) The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

(2) The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after December 31, 2011.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1213, § 1820; Pub. L. 88–151, § 1, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88–560, title VII, § 701(e)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89–625, Oct. 4, 1966, 80 Stat. 874; Pub. L. 89–769, § 3(c), Nov. 6, 1966, 80 Stat. 1316; Pub. L. 90–448, title VIII, § 807(h), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91–606, title II, § 233, Dec. 31, 1970, 84 Stat. 1753; Pub. L. 92–328, title II, § 205, June 30, 1972, 86 Stat. 397; Pub. L. 93–288, title VII, § 702(*l*), formerly title VI, § 602(*l*), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(*l*), Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94–324, § 7(24)–(26), June 30, 1976, 90 Stat. 722; Pub. L. 95–117, title IV, § 403(a), Oct. 3, 1977, 91 Stat. 1066; Pub. L. 97–258, § 3(k)(3), Sept. 13, 1982, 96 Stat.

1065; Pub. L. 97–295, § 4(67), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 98–160, title VII, § 702(14), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99–576, title IV, § 404, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 100–707, title I, § 109(n), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101–237, title III, § 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–54, § 4(a), June 13, 1991, 105 Stat. 268; renumbered § 3720 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–291, § 5(a), May 20, 1992, 106 Stat. 179; Pub. L. 102–547, § 4, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104–110, title I, § 101(f), Feb. 13, 1996, 110 Stat. 768; Pub. L. 104–275, title II, § 201, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105–33, title VIII, § 8011, Aug. 5, 1997, 111 Stat. 664; Pub. L. 105–368, title VI, §§ 602(c)(1), 604(a), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L. 106–419, title IV, § 402(a), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107–103, title IV, § 405(b), Dec. 27, 2001, 115 Stat. 994.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Title III of the Act is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts. For complete classification of this Act to the Code, see Tables.

The Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), referred to in subsec. (f), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2001—Subsec. (h)(2). Pub. L. 107–103 substituted ''December 31, 2011'' for ''December 31, 2008''.

2000—Subsec. (h)(2). Pub. L. 106–419 substituted ''December 31, 2008'' for ''December 31, 2002''.

1998—Subsec. (b). Pub. L. 105–368, § 604(a), substituted '', except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.'' for ''; however, section 3709 of the Revised Statutes (41 U.S.C. 5) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds the amount prescribed in clause (1) of the first sentence of such section.''

Subsec. (e). Pub. L. 105–368, § 602(c)(1), struck out subsec. (e), which authorized Secretary to set aside first mortgage loans and installment sales contracts owned or held by Secretary under this chapter as basis for sale of participation certificates, authorized agreements, including trust agreements, for this purpose, and set forth provisions relating to allocation, deposit, and set aside of proceeds.

1997—Subsec. (h)(2). Pub. L. 105–33 substituted ''December 31, 2002'' for ''December 31, 1997''.

1996—Subsec. (h)(2). Pub. L. 104–275 substituted ''December 31, 1997'' for ''December 31, 1996''.

Pub. L. 104–110 substituted ''December 31, 1996'' for ''December 31, 1995''.

1992—Subsec. (h). Pub. L. 102–547 substituted ''December 31, 1995'' for ''December 31, 1992'' in par. (2).

Pub. L. 102–291 added subsec. (h).

1991—Pub. L. 102–83, § 5(a), renumbered section 1820 of this title as this section.

Subsec. (e)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3723 and 3724'' for ''1823 and 1824'' in two places.

Subsec. (g). Pub. L. 102–54 added subsec. (g).

1989—Subsecs. (a) to (c), (e), (f). Pub. L. 101–237 substituted ''Secretary'', ''Secretary's'', and ''Department of Veterans Affairs'' for ''Administrator'', ''Administrator's'', and ''Veterans' Administration'', respectively, wherever appearing.

1988—Subsec. (f). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

1986—Subsec. (b). Pub. L. 99–576 substituted ''the amount prescribed in clause (1) of the first sentence of such section'' for ''$1,000''.

1983—Subsec. (a)(6). Pub. L. 98–160 struck out comma after ''title 31''.

Subsec. (b). Pub. L. 98–160 substituted ''section 3709 of the Revised Statutes (41 U.S.C. 5)'' for ''section 5 of title 41''.

1982—Subsec. (a)(6). Pub. L. 97–258 substituted ''section 3302(b) of title 31'' for ''section 3617, Revised Statutes (31 U.S.C. 484)''.

Subsec. (f). Pub. L. 97–295 inserted ''(42 U.S.C. 5121 et seq.)'' after ''the Disaster Relief Act of 1974''.

1977—Subsec. (a)(1). Pub. L. 95–117 inserted prohibition relating to garnishment or attachment against the Administrator, etc.

1976—Subsec. (a)(1). Pub. L. 94–324, § 7(24), substituted ''the Administrator's'' for ''his''.

Subsec. (a)(5). Pub. L. 94–324, § 7(24), substituted ''the Administrator'' for ''he''.

Subsec. (a)(6). Pub. L. 94–324, § 7(25), substituted ''utilized by the Administrator'' for ''utilized by him''.

Subsec. (e)(1). Pub. L. 94–324, § 7(26), substituted ''the Administrator determines'' for ''he determines'', ''by the Administrator'' for ''by him'', ''the Administrator shall periodically'' for ''he shall periodically'', ''set aside by the Administrator'' for ''set aside by him'', ''the Administrator's commitment'' for ''his commitment'', and ''to pay the Administrator's'' for ''to pay his''.

Subsec. (e)(2). Pub. L. 94–324, § 7(26), substituted ''as the Administrator determines'' for ''as he determines''.

1974—Subsec. (f). Pub. L. 93–288 substituted ''Disaster Relief Act of 1974'' for ''Disaster Assistance Act of 1970.''

1972—Subsec. (a)(4). Pub. L. 92–328 struck out provisions relating to the authority to waive or release claims, including partial or total waiver of payment, following default and loss of property.

1970—Subsec. (a)(2). Pub. L. 91–606, § 233(1), substituted ''a loan which has been guaranteed, insured, made or acquired under this chapter'' for ''a loan which has been guaranteed or insured under this chapter''.

Subsec. (f). Pub. L. 91–606, § 233(2), directed the Administrator in major disaster areas to provide the owner of property lost, destroyed, or damaged as the result of a major disaster with counseling and other services, to inform him of disaster assistance available from other Federal, state, or local agencies and to extend such forbearance on an individual case basis as he determines to be warranted by the facts of the case.

1968—Subsec. (e)(1). Pub. L. 90–448 substituted ''Government National Mortgage Association'' for ''Federal National Mortgage Association'' wherever appearing.

1966—Subsec. (a)(6). Pub. L. 89–625 authorized brokers utilized by Administrator in connection with properties acquired or held pursuant to this chapter to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with management, repair, sale, or lease of properties and to remit the net balances to Administrator.

Subsec. (f). Pub. L. 89–769 added subsec. (f).

1964—Subsec. (e). Pub. L. 88–560 added subsec. (e).

1963—Subsec. (a)(4). Pub. L. 88–151 provided for waiver of indebtedness to the United States in certain cases arising out of default on loans guaranteed or made by the Veterans' Administration.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602(c)(1) of Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

Pub. L. 105–368, title VI, § 604(b), Nov. 11, 1998, 112 Stat. 3348, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with

respect to contracts entered into under section 3720 of title 38, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 11, 1998].''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 403(b) of Pub. L. 95–117 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977].''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective June 30, 1972, see section 301(c) of Pub. L. 92–328, set out as a note under section 3713 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89–769.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

PROPERTY MANAGEMENT

Pub. L. 100–198, § 9, Dec. 21, 1987, 101 Stat. 1320, as amended by Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, § 6(i), Aug. 6, 1991, 105 Stat. 408, provided for programs under which the Secretary could (1) convey to nonprofit entities or to States or political subdivisions of States real property or improvements to real property acquired by the Secretary as the result of a default of a loan made under this chapter to use the properties to provide shelter for homeless veterans and their families, or (2) convey such properties to entities for use in job training programs for property rehabilitation and later sale to homeless veterans. Authority to carry out the programs terminated on Oct. 1, 1990.

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY; REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95–202, title III, § 311, Nov. 23, 1977, 91 Stat. 1449, directed Administrator of Veterans' Affairs, in consultation with Secretary of Energy and Secretary of Housing and Urban Development, to conduct a study to determine the most effective methods of using the programs carried out under, or amending provisions of, this chapter in order to aid and encourage present and prospective veteran homeowners to install solar heating and cooling in their homes and to apply residential energy conservation measures and that a report on such study be submitted to Congress not later than Mar. 1, 1978.

WAIVER OF INDEBTEDNESS; REPORT TO CONGRESS

Section 2 of Pub. L. 88–151 provided that: ''The Administrator of Veterans' Affairs shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Veterans' Affairs of the House of Representatives, not later than December 31 of each year, a written report concerning each case in which a waiver of indebtedness has been made under the authority of the amendment made by the first section of this Act [amending subsec. (a)(4) of this section]. Such report shall include, together with such other information as the Administrator deems appropriate, the name and address of each person with respect to which a waiver of indebtedness has been made and the total amount of such waiver.''

ADMINISTRATION OF TRUSTS BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

Provision for participation sales and administration of trusts by Federal National Mortgage Association not to be construed as a repeal or modification of the provisions of subsection (e) of this section respecting the authority of the Administrator of Veterans' Affairs, see section 6(a) of Pub. L. 89–429, set out as a note under section 1717 of Title 12, Banks and Banking.

§ 3721. Incontestability

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Secretary shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1213, § 1821; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3721, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1821 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

§ 3722. Veterans Housing Benefit Program Fund

(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund (hereinafter in this section referred to as the ''Fund'').

(b) The Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, other than administrative expenses, consistent with the Federal Credit Reform Act of 1990.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Any amount appropriated to the Fund.

(2) Amounts paid into the Fund under section 3729 of this title or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan programs under this chapter.

(3) All other amounts received by the Secretary on or after October 1, 1998, incident to housing loan operations under this chapter, including—

(A) collections of principal and interest on housing loans made by the Secretary under this chapter;

(B) proceeds from the sale, rental, use, or other disposition of property acquired under this chapter;

(C) proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3) of this title; and

(D) penalties collected pursuant to section 3710(g)(4)(B) of this title.

(d) Amounts deposited into the Fund under paragraphs (2) and (3) of subsection (c) shall be deposited in the appropriate financing or liquidating account of the Fund.

(e) For purposes of this section, the term ''housing loan'' shall not include a loan made pursuant to subchapter V of this chapter.

(Added Pub. L. 105–368, title VI, § 602(a)(2), Nov. 11, 1998, 112 Stat. 3345; amended Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

PRIOR PROVISIONS

Prior to renumbering of sections 1801 to 1851 of this chapter as sections 3701 to 3751 by Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406, section 1822 of this chapter, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 89–358, § 5(c), Mar. 3, 1966, 88 Stat. 26; Pub. L. 89–623, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 90–301, § 2(b), May 7, 1968, 82 Stat. 113, which provided for bringing of an action in district court, by veteran or Attorney General, against one who knowingly participated in sale of property to a veteran for consideration in excess of reasonable value of property, was repealed by Pub. L. 93–569, §§ 7(a), 10, Dec. 31, 1974, 88 Stat. 1866, 1867, effective Dec. 31, 1974.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

TRANSFERS OF AMOUNTS INTO VETERANS HOUSING BENEFIT PROGRAM FUND

Pub. L. 105–368, title VI, § 602(b), Nov. 11, 1998, 112 Stat. 3346, provided that: ''All amounts in the following funds are hereby transferred to the Veterans Housing Benefit Program Fund:

''(1) The Direct Loan Revolving Fund, as such fund was continued under section 3723 of title 38, United States Code (as such section was in effect on the day before the effective date of this title [Nov. 11, 1998]).

''(2) The Department of Veterans Affairs Loan Guaranty Revolving Fund, as established by section 3724 of such title (as such section was in effect on the day before the effective date of this title).

''(3) The Guaranty and Indemnity Fund, as established by section 3725 of such title (as such section was in effect on the day before the effective date of this title).''

[§§ 3723 to 3725. Repealed. Pub. L. 105–368, title VI, § 602(a)(1), Nov. 11, 1998, 112 Stat. 3345]

Section 3723, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1214, § 1823; Pub. L. 86–73, § 4, June 30, 1959, 73 Stat. 156; Pub. L. 86–665, § 4, July 14, 1960, 74 Stat. 532; Pub. L. 87–84, § 3, July 6, 1961, 75 Stat. 202; Pub. L. 88–274, Feb. 29, 1964, 78 Stat. 147; Pub. L. 88–560, title VII, § 701(e)(2), Sept. 2, 1964, 78 Stat. 801; Pub. L. 94–324, §§ 6, 7(27), June 30, 1976, 90 Stat. 721, 722; Pub. L. 97–295, § 4(68), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97–452, § 2(e)(2), Jan. 12, 1983, 96 Stat. 2479; Pub. L. 99–576, title IV, § 405, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 101–237, title III, § 313(b)(1), (8), (9), Dec. 18, 1989, 103 Stat. 2077, 2078; renumbered § 3723 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to direct loan revolving fund. See section 3722 of this title.

Section 3724, added Pub. L. 86–665, § 7(a), July 14, 1960, 74 Stat. 532, § 1824; amended Pub. L. 94–324, § 7(28), June 30, 1976, 90 Stat. 722; Pub. L. 97–72, title III, § 303(j), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 98–369, div. B, title V, § 2511(b), July 18, 1984, 98 Stat. 1117; Pub. L. 99–322, § 2(a), May 23, 1986, 100 Stat. 494; Pub. L. 100–689, title III, § 303, Nov. 18, 1988, 102 Stat. 4177; Pub. L. 101–237, title III, §§ 302(a)(2), (3)(A), (c), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2070, 2071, 2077; renumbered § 3724 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to Loan Guaranty Revolving Fund. See section 3722 of this title.

Section 3725, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1215, § 1824; renumbered § 1825, Pub. L. 86–665, § 7(a), July 14, 1960, 74 Stat. 532; amended Pub. L. 94–324, § 7(29), June 30, 1976, 90 Stat. 722; Pub. L. 101–237, title III, § 302(a)(1), Dec. 18, 1989, 103 Stat. 2069; Pub. L. 102–54, § 15(a)(2), June 13, 1991, 105 Stat. 289; renumbered § 3725 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 2(b)(2), Oct. 28, 1992, 106 Stat. 3634, related to Guaranty and Indemnity Fund. See section 3722 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

§ 3726. Withholding of payments, benefits, etc.

(a) No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law administered by the Department of Veterans Affairs) which such veteran or surviving spouse would otherwise be entitled to receive because of any liability to the Secretary allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.

(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving

spouse should be released from liability under section 3713(b) of this title.

(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.

(Added Pub. L. 89–358, § 5(f)(1), Mar. 3, 1966, 80 Stat. 26, § 1826; amended Pub. L. 94–324, § 7(30), June 30, 1976, 90 Stat. 722; Pub. L. 97–66, title V, § 504, Oct. 17, 1981, 95 Stat. 1033; Pub. L. 101–237, title III, § 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3726, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–33, title VIII, § 8033(a), Aug. 5, 1997, 111 Stat. 669.)

AMENDMENTS

1997—Pub. L. 105–33 designated existing provisions as subsec. (a), substituted ''unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.'' for ''unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.'', and added subsecs. (b) and (c).

1991—Pub. L. 102–83 renumbered section 1826 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively.

1981—Pub. L. 97–66 struck out subsec. (a) which provided that the Administrator could not, unless the Administrator had first obtained the consent in writing of an individual, set off against, or otherwise withhold from, such individual any benefits payable to such individual under any law administered by the Veterans' Administration because of liability allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such individual under this chapter, and struck out designation ''(b)'' before ''No officer, employee, department, or agency of the United States''.

1976—Subsec. (a). Pub. L. 94–324 substituted ''the Administrator'' for ''he''.

Subsec. (b). Pub. L. 94–324 substituted ''surviving spouse'' for ''widow'' wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 8033(c) of Pub. L. 105–33 provided that: ''The amendments made by this section [amending this section and section 5302 of this title] shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1980, see section 701(b)(3) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

§ 3727. Expenditures to correct or compensate for structural defects in mortgaged homes

(a) The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling inspected during construction by the Department of Veterans Affairs or the Federal Housing Administration which the Secretary finds to have structural defects seriously affecting the livability of the property, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property; except that such authority of the Secretary shall exist only (A) if the owner requests assistance under this section not later than four years (or such shorter time as the Secretary may prescribe) after the mortgage loan was made, guaranteed, or insured, and (B) if the property is encumbered by a mortgage which is made, guaranteed, or insured under this chapter after May 7, 1968.

(b) The Secretary shall by regulation prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and the Secretary's decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive, and shall not be subject to judicial review.

(c) The Secretary is authorized to make expenditures for the purposes of this section from the fund established pursuant to section 3722 of this title.

(Added Pub. L. 90–301, § 5(a), May 7, 1968, 82 Stat. 116, § 1827; amended Pub. L. 94–324, § 7(31), June 30, 1976, 90 Stat. 722; Pub. L. 101–237, title III, § 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3727 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title VI, § 602(e)(1)(C), title X, § 1005(b)(11), Nov. 11, 1998, 112 Stat. 3346, 3365.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368, § 1005(b)(11), substituted ''May 7, 1968'' for ''the date of enactment of this section''.

Subsec. (c). Pub. L. 105–368, § 602(e)(1)(C), substituted ''fund established pursuant to section 3722 of this title'' for ''funds established pursuant to sections 3723 and 3724 of this title, as applicable''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1827 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3723 and 3724'' for ''1823 and 1824''.

1989—Pub. L. 101–237 substituted ''Secretary'', ''Secretary's'', and ''Department of Veterans Affairs'' for ''Administrator'', ''Administrator's'', and ''Veterans' Administration'', respectively, wherever appearing.

1976—Subsec. (a). Pub. L. 94–324 substituted ''the Administrator finds'' for ''he finds''.

Subsec. (b). Pub. L. 94–324 substituted ''the Administrator's'' for ''his''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602 of Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

§ 3728. Exemption from State anti-usury provisions

If, under any law of the United States, loans and mortgages insured under title I or title II of

the National Housing Act are exempt from the application of the provisions of any State constitution or law (1) limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, (2) restricting the manner of calculating such interest (including prohibition of the charging of interest on interest), or (3) requiring a minimum amortization of principal, then loans guaranteed or insured under this chapter are also exempt from the application of such provisions.

(Added Pub. L. 96–128, title IV, § 401(a), Nov. 28, 1979, 93 Stat. 986, § 1828; amended Pub. L. 97–66, title V, § 501(b), Oct. 17, 1981, 95 Stat. 1032; renumbered § 3728, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Titles I and II of the Act are classified generally to subchapters I (§ 1702 et seq.) and II (§ 1707 et seq.), respectively, of chapter 13 of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1828 of this title as this section.

1981—Pub. L. 97–66 designated as cl. (1) existing provisions relating to the limiting of rates or amounts of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders, and added cls. (2) and (3).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE

Section effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as an Effective Date of 1979 Amendment note under section 1114 of this title.

§ 3729. Loan fee

(a) REQUIREMENT OF FEE.—(1) Except as provided in subsection (c), a fee shall be collected from each person obtaining a housing loan guaranteed, insured, or made under this chapter, and each person assuming a loan to which section 3714 of this title applies. No such loan may be guaranteed, insured, made, or assumed until the fee payable under this section has been remitted to the Secretary.

(2) The fee may be included in the loan and paid from the proceeds thereof.

(b) DETERMINATION OF FEE.—(1) The amount of the fee shall be determined from the loan fee table in paragraph (2). The fee is expressed as a percentage of the total amount of the loan guaranteed, insured, or made, or, in the case of a loan assumption, the unpaid principal balance of the loan on the date of the transfer of the property.

(2) The loan fee table referred to in paragraph (1) is as follows:

LOAN FEE TABLE

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed before January 1, 2004)	2.00	2.75	NA
(A)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after January 1, 2004, and before October 1, 2004)	2.20	2.40	NA
(A)(iii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2004, and before October 1, 2011)	2.15	2.40	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(A)(iv) Initial loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other initial loan described in section 3710(a) other than with 5-down or 10-down (closed on or after October 1, 2011)	1.40	1.65	NA
(B)(i) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed before January 1, 2004)	3.00	3.00	NA
(B)(ii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after January 1, 2004, and before October 1, 2011)	3.30	3.30	NA
(B)(iii) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2011 and before October 1, 2013)	2.15	2.15	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(B)(iv) Subsequent loan described in section 3710(a) to purchase or construct a dwelling with 0-down, or any other subsequent loan described in section 3710(a) (closed on or after October 1, 2013)	1.25	1.25	NA
(C)(i) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed before October 1, 2011)	1.50	1.75	NA
(C)(ii) Loan described in section 3710(a) to purchase or construct a dwelling with 5-down (closed on or after October 1, 2011)	0.75	1.00	NA
(D)(i) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed before October 1, 2011)	1.25	1.50	NA
(D)(ii) Initial loan described in section 3710(a) to purchase or construct a dwelling with 10-down (closed on or after October 1, 2011)	0.50	0.75	NA
(E) Interest rate reduction refinancing loan	0.50	0.50	NA
(F) Direct loan under section 3711	1.00	1.00	NA
(G) Manufactured home loan under section 3712 (other than an interest rate reduction refinancing loan)	1.00	1.00	NA

LOAN FEE TABLE—Continued

Type of loan	Active duty veteran	Reservist	Other obligor
(H) Loan to Native American veteran under section 3762 (other than an interest rate reduction refinancing loan) ...	1.25	1.25	NA
(I) Loan assumption under section 3714	0.50	0.50	0.50
(J) Loan under section 3733(a) ..	2.25	2.25	2.25

(3) Any reference to a section in the ''Type of loan'' column in the loan fee table in paragraph (2) refers to a section of this title.

(4) For the purposes of paragraph (2):

(A) The term ''active duty veteran'' means any veteran eligible for the benefits of this chapter other than a Reservist.

(B) The term ''Reservist'' means a veteran described in section 3701(b)(5)(A) of this title who is eligible under section 3702(a)(2)(E) of this title.

(C) The term ''other obligor'' means a person who is not a veteran, as defined in section 101 of this title or other provision of this chapter.

(D) The term ''initial loan'' means a loan to a veteran guaranteed under section 3710 or made under section 3711 of this title if the veteran has never obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(E) The term ''subsequent loan'' means a loan to a veteran, other than an interest rate reduction refinancing loan, guaranteed under section 3710 or made under section 3711 of this title if the veteran has previously obtained a loan guaranteed under section 3710 or made under section 3711 of this title.

(F) The term ''interest rate reduction refinancing loan'' means a loan described in section 3710(a)(8), 3710(a)(9)(B)(i), 3710(a)(11), 3712(a)(1)(F), or 3762(h) of this title.

(G) The term ''0-down'' means a downpayment, if any, of less than 5 percent of the total purchase price or construction cost of the dwelling.

(H) The term ''5-down'' means a downpayment of at least 5 percent or more, but less than 10 percent, of the total purchase price or construction cost of the dwelling.

(I) The term ''10-down'' means a downpayment of 10 percent or more of the total purchase price or construction cost of the dwelling.

(c) WAIVER OF FEE.—(1) A fee may not be collected under this section from a veteran who is receiving compensation (or who, but for the receipt of retirement pay, would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

(2) A veteran who is rated eligible to receive compensation as a result of a pre-discharge disability examination and rating shall be treated as receiving compensation for purposes of this subsection as of the date on which the veteran is rated eligible to receive compensation as a result of the pre-discharge disability examination and rating without regard to whether an effective date of the award of compensation is established as of that date.

(Added Pub. L. 97–253, title IV, § 406(a)(1), Sept. 8, 1982, 96 Stat. 805, § 1829; amended Pub. L. 98–369, div. B, title V, § 2511(a), July 18, 1984, 98 Stat. 1117; Pub. L. 100–198, §§ 2, 10(c), Dec. 21, 1987, 101 Stat. 1315, 1323; Pub. L. 100–203, title VII, § 7002, Dec. 22, 1987, 101 Stat. 1330–279; Pub. L. 100–322, title IV, § 415(c)(6), May 20, 1988, 102 Stat. 551; Pub. L. 101–237, title III, §§ 303(a), 313(b)(1), Dec. 18, 1989, 103 Stat. 2071, 2077; Pub. L. 101–239, title V, § 5001, Dec. 19, 1989, 103 Stat. 2136; Pub. L. 101–508, title VIII, § 8032, Nov. 5, 1990, 104 Stat. 1388–348; Pub. L. 102–54, § 15(a)(3), (4), June 13, 1991, 105 Stat. 289; renumbered § 3729 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, §§ 2(b)(1), 5, Oct. 28, 1992, 106 Stat. 3633, 3636; Pub. L. 103–66, title XII, § 12007, Aug. 10, 1993, 107 Stat. 414; Pub. L. 103–446, title IX, § 904(c), Nov. 2, 1994, 108 Stat. 4677; Pub. L. 104–275, title II, § 202(b), Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105–33, title VIII, §§ 8012, 8032, Aug. 5, 1997, 111 Stat. 664, 669; Pub. L. 105–368, title VI, §§ 602(e)(1)(D), 603(b), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L. 106–419, title IV, § 402(b), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107–14, § 8(b)(4), June 5, 2001, 115 Stat. 36; Pub. L. 107–103, title IV, §§ 405(c), 406, Dec. 27, 2001, 115 Stat. 994; Pub. L. 108–183, title IV, § 405, Dec. 16, 2003, 117 Stat. 2665; Pub. L. 108–454, title IV, § 406, Dec. 10, 2004, 118 Stat. 3617.)

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–454 designated existing provisions as par. (1) and added par. (2).

2003—Subsec. (b)(2). Pub. L. 108–183 amended par. (2) generally, revising table by adding cls. (iii) and (iv) of subpars. (A) and (B) and changing dates in subpars. (A) and (B).

2001—Pub. L. 107–14 made technical amendment to Pub. L. 106–419. See 2000 Amendment note below.

Subsec. (b)(2). Pub. L. 107–103, § 405(c), substituted ''October 1, 2011'' for ''October 1, 2008'' wherever appearing in table.

Subsec. (b)(4)(B). Pub. L. 107–103, § 406, inserted ''who is eligible under section 3702(a)(2)(E) of this title'' before period.

2000—Pub. L. 106–419, as amended by Pub. L. 107–14, amended text generally, substituting present provisions for provisions which established loan fee, set fee as 1.25 percent of total loan amount, with exceptions, provided that amount of fee may be included in loan amount and paid from proceeds thereof, provided for increased loan fee percentage for loans closed during specified period, provided for fees on subsequent loans and assumed loans, and provided that fees may not be collected from veterans receiving compensation or from surviving spouses of any veterans who died from service-connected disability.

1998—Subsec. (a)(1). Pub. L. 105–368, § 602(e)(1)(D)(ii), substituted ''(c)'' for ''(c)(1)''.

Subsec. (a)(4). Pub. L. 105–368, § 603(b), designated existing provisions as subpar. (A), substituted ''during the period specified in subparagraph (B)'' for ''after September 30, 1993, and before October 1, 2002,'', and added subpar. (B).

Subsec. (c). Pub. L. 105–368, § 603(e)(1)(D)(i), struck out ''(1)'' before ''A fee may not'' and struck out pars. (2) and (3) which read as follows:

''(2) There shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under clause (A) or (B) of paragraph (2) of section 3725(c) of this title or paragraph (3) of that section), on behalf of a veteran or surviving spouse described in paragraph (1) of this subsection, an amount equal to the fee that, except for paragraph (1) of this subsection, would be collected from such veteran or surviving spouse.

''(3) Credits to the Guaranty and Indemnity Fund under paragraph (2) of this subsection with respect to loans guaranteed, insured, or made under this chapter that are closed during fiscal year 1990 shall be made in October 1990.''

1997—Subsec. (a)(2)(A). Pub. L. 105–33, § 8032(1)(A), struck out ''or 3733(a)'' after ''section 3711''.

Subsec. (a)(2)(F). Pub. L. 105–33, § 8032(1)(B)–(D), added subpar. (F).

Subsec. (a)(4). Pub. L. 105–33, §§ 8012(1), 8032(2), substituted ''October 1, 2002'' for ''October 1, 1998'' and ''(E), or (F)'' for ''or (E)''.

Subsec. (a)(5)(C). Pub. L. 105–33, § 8012(2), substituted ''October 1, 2002'' for ''October 1, 1998''.

1996—Subsec. (a)(2)(E). Pub. L. 104–275 substituted ''3712(a)(1)(F), or 3762(h)'' for ''or 3712(a)(1)(F)''.

1994—Subsec. (a)(2)(E). Pub. L. 103–446 inserted ''3710(a)(11),'' after ''3710(a)(9)(B)(i),''.

1993—Subsec. (a)(2). Pub. L. 103–66, § 12007(c), substituted ''paragraphs (4) and (5)'' for ''paragraph (6)'' in introductory provisions.

Subsecs. (a)(4) to (6). Pub. L. 103–66, § 12007(a), (b), added pars. (4) and (5) and struck out par. (6) which read as follows: ''With respect to each loan closed during the period beginning on November 1, 1990, and ending on September 30, 1991, each amount specified in paragraph (2) of this subsection shall be increased by 0.625 percent of the total loan amount.''

1992—Subsec. (a)(2)(A). Pub. L. 102–547, § 5(1), inserted ''(other than section 3712(a)(1)(F))'' after ''section 3712''.

Subsec. (a)(2)(D). Pub. L. 102–547, § 2(b)(1), added subpar. (D).

Subsec. (a)(2)(E). Pub. L. 102–547, § 5(2), added subpar. (E).

1991—Pub. L. 102–83, § 5(a), renumbered section 1829 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3733(a)'' for ''1833(a)''.

Subsec. (a)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3711 or 3733(a)'' for ''1811 or 1833(a)'' and ''3712'' for ''1812'' in subpar. (A) and ''3712(a)'' for ''1812(a)'' in subpars. (B) and (C).

Subsec. (a)(3) to (5). Pub. L. 102–54, § 15(a)(3), redesignated par. (5) as (3) and struck out former pars. (3) and (4) which read as follows:

''(3) Except as provided in paragraph (4) of this subsection, there shall be credited to the Guaranty and Indemnity Fund (in addition to the amount required to be credited to such Fund under section 1825(c)(2)(A) or (B) of this title), on behalf of a veteran who has made a downpayment described in paragraph (2)(C) of this subsection, an amount equal to 0.25 percent of the total loan amount for the fiscal year in which the loan is closed and for the following fiscal year.

''(4) Credits to the Guaranty and Indemnity Fund under paragraph (3) of this subsection with respect to loans guaranteed or insured under this chapter that are closed during fiscal year 1990 shall be made in October 1990 and October 1991.''

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3714'' for ''1814''.

Subsec. (c)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3725(c)'' for ''1825(c)''.

Pub. L. 102–54, § 15(a)(4), substituted ''clause (A) or (B) of paragraph (2) of section 1825(c) of this title or paragraph (3) of that section'' for ''section 1825(c)(2)(A) or (B) of this title and subsection (a)(3) of this section''.

1990—Subsec. (a)(2). Pub. L. 101–508, § 8032(1), substituted ''Except as provided in paragraph (6) of this subsection, the amount'' for ''The amount''.

Subsec. (a)(6). Pub. L. 101–508, § 8032(2), added par. (6).

1989—Pub. L. 101–237, § 303(a), amended section generally. Prior to amendment, section read as follows:

''(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and from each person obtaining a loan from the Secretary to finance the purchase of real property from the Secretary, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Secretary. The amount of the fee shall be one percent of the total loan amount. The amount of the fee may be included in the loan and paid from the proceeds thereof.

''(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability.

''(c) A fee may not be collected under this section with respect to any loan closed after September 30, 1990.

''(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section 1814 of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property.''

Subsec. (a). Pub. L. 101–237, § 313(b)(1), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c). Pub. L. 101–239 substituted ''September 30, 1990'' for ''September 30, 1989''.

1988—Subsec. (d). Pub. L. 100–322 substituted ''section 1814'' for ''section 1817A''.

1987—Subsec. (b). Pub. L. 100–198, § 2(b), substituted ''of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability'' for ''described in section 1801(b)(2) of this title''.

Subsec. (c). Pub. L. 100–198, § 2(a), and Pub. L. 100–203, amended subsec. identically, substituting ''September 30, 1989'' for ''September 30, 1987''.

Subsec. (d). Pub. L. 100–198, § 10(c), added subsec. (d).

1984—Subsec. (a). Pub. L. 98–369, § 2511(a)(1), inserted ''and from each person obtaining a loan from the Administrator to finance the purchase of real property from the Administrator,'' after ''under this chapter,'', struck out ''one-half of'' before ''one percent of the total loan amount'', and struck out ''to the veteran'' after ''in the loan''.

Subsecs. (c), (d). Pub. L. 98–367, § 2511(a)(2), (3), redesignated subsec. (d) as (c) and substituted ''September 30, 1987'' for ''September 30, 1985''. Former subsec. (c), which related to deposit of fees collected under this section into Treasury as miscellaneous receipts, was struck out.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title IV, § 405, Dec. 16, 2003, 117 Stat. 2665, provided that the amendment made by section 405 is effective Jan. 1, 2004.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–14, § 8(b), June 5, 2001, 115 Stat. 34, provided that the amendment made by section 8(b) is effective Nov. 1, 2000, and as if included in the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106–419, as enacted.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 303(b) of Pub. L. 101–237 provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 1990.''

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2511(c) of Pub. L. 98–369 provided that:

''(1) The amendments made by subsection (a)(1) [amending this section] shall apply with respect to loans closed after the end of the 30-day period beginning on the date of the enactment of this Act [July 18, 1984].

''(2) The amendments made by subsections (a)(2) and (b) [amending this section and section 1824 [now 3724] of this title] shall apply with respect to loans closed on or after the date of the enactment of this Act [July 18, 1984].

''(3) The amendment made by subsection (a)(3) [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984].''

EFFECTIVE DATE

Section 406(b) of Pub. L. 97–253, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''Section 1829 [now 3729] of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.''

FEE FOR LOAN ASSUMPTION

Pub. L. 107–330, title III, § 307, Dec. 6, 2002, 116 Stat. 2827, provided that:

''(a) IN GENERAL.—For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting '1.00' for '0.50' each place it appears.

''(b) PERIOD DESCRIBED.—The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act [Dec. 6, 2002] and ends on September 30, 2003.''

RATIFICATION OF ACTIONS BY SECRETARY OF VETERANS AFFAIRS AND BY SECRETARY OF THE TREASURY BETWEEN OCT. 1, 1990, AND JUNE 13, 1991

Section 15(b) of Pub. L. 102–54, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that:

''(1) Any action of the Secretary of Veterans Affairs or the Secretary of the Treasury—

''(A) that was taken during the period beginning on October 1, 1990, and ending on the date of the enactment of this Act [June 13, 1991]; and

''(B) that would have been an action carried out under section 3725(c)(3) [formerly 1825(c)(3)] of title 38, United States Code, if the amendment made by paragraph (2) of subsection (a) of this section had been made before October 1, 1990,

is hereby ratified.

''(2) Any failure to act by the Secretary of Veterans Affairs or the Secretary of the Treasury during such period under section 3729(a)(3) [formerly 1829(a)(3)] of such title is hereby ratified.''

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING TRANSITION PERIODS

For provisions ratifying any actions of the Secretary of Veterans Affairs in carrying out this section during the period beginning Dec. 1, 1989, and ending Dec. 18, 1989, see section 604 of Pub. L. 101–237, set out as a note under section 1720B of this title.

For provisions ratifying any actions of the Secretary of Veterans Affairs in carrying out this section during the period beginning Oct. 1, 1989, and ending Oct. 6, 1989, see section 3(b) of Pub. L. 101–110, set out as a note under section 1720B of this title.

RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS

For rule relating to construction of provisions of Pub. L. 100–203 and Pub. L. 100–198 making duplicate amendments to this section, see section 7004(b) of Pub. L. 100–203, set out as a note under section 3733 of this title.

EXTENSION OF TIME FOR COLLECTION OF FEES

Section 303(c) of Pub. L. 101–237 directed Secretary of Veterans Affairs to collect fees under this section through Dec. 31, 1989.

Pub. L. 101–110, § 2, Oct. 6, 1989, 103 Stat. 682, authorized collection of fees under this section with respect to loans closed before Dec. 1, 1989.

Pub. L. 100–136, § 1(b), Oct. 16, 1987, 101 Stat. 813, authorized collection of fees under this section with respect to loans closed through Nov. 15, 1987.

HOME LOAN ORIGINATION FEE

Pub. L. 99–576, title IV, § 409, Oct. 28, 1986, 100 Stat. 3283, provided that: ''It is the sense of the Congress that the Veterans' Administration loan origination fee should not be increased above its present level of one percent of the amount of the loan guaranteed.''

§ 3730. Use of attorneys in court

(a) The Secretary shall authorize attorneys employed by the Department of Veterans Affairs to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Secretary under this chapter and to recover possession of any property acquired by the Secretary under this chapter. The Secretary may acquire the services of attorneys, other than those who are employees of the Department of Veterans Affairs, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

(Added Pub. L. 98–369, div. B, title V, § 2512(b)(1), July 18, 1984, 98 Stat. 1120, § 1830; amended Pub. L. 99–576, title IV, § 406, Oct. 28, 1986, 100 Stat. 3282; Pub. L. 101–237, title III, § 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3730, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title X, § 1005(b)(12), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''The Secretary shall'' for ''Within 180 days after the date of the enactment of this section, the Secretary shall take appropriate steps to''.

1991—Pub. L. 102–83 renumbered section 1830 of this title as this section.

1989—Subsec. (a). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1986—Subsec. (a). Pub. L. 99–576 substituted ''The'' for ''With the concurrence of the Attorney General of the United States, the'' in second sentence.

EFFECTIVE DATE

Section 2512(c)(3) of Pub. L. 98–369 provided that: ''The amendments made by subsection (b) [enacting this section] shall take effect on the date of the enactment of this Act [July 18, 1984].''

§ 3731. Appraisals

(a) The Secretary shall—

(1) subject to subsection (b)(2) and in consultation with appropriate representatives of institutions which are regularly engaged in making housing loans, prescribe uniform qualifications for appraisers, including the

successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers;

(2) use such qualifications in determining whether to approve an appraiser to make appraisals of the reasonable value of any property, construction, repairs, or alterations for the purposes of this chapter; and

(3) in consultation with local representatives of institutions described in clause (1) of this subsection, develop and maintain lists of appraisers who are approved under clause (2) of this subsection to make appraisals for the purposes of this chapter.

(b)(1) The Secretary shall select appraisers from a list required by subsection (a)(3) of this section on a rotating basis to make appraisals for the purposes of this chapter.

(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Secretary may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.

(c) Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Secretary for review. Upon receipt of such report, the Secretary shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Secretary shall furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.

(d) If a lender (other than a lender authorized under subsection (f) of this section to determine reasonable value)—

(1) has proposed to make a loan to be guaranteed under this chapter,

(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

(3) within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section,

the Secretary shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(e)(1) In no case may a veteran be required to pay all or any portion of the cost of the additional appraisal described in subsection (d)(3) of this section.

(2) If a veteran, within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the veteran from the list required by subsection (a)(3) of this section, the Secretary shall consider such appraisal, along with other appraisals furnished to the Secretary, and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Secretary may, in accordance with standards and procedures established in regulations prescribed by the Secretary, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 3702(d) of this title. In such a case, the appraiser selected by the Secretary pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Secretary.

(2) In exercising the authority provided in paragraph (1) of this subsection, the Secretary shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

[(3) Repealed. Pub. L. 104–110, title I, § 101(g), Feb. 13, 1996, 110 Stat. 768.]

(4) Not later than April 30 of each year following a year in which the Secretary authorizes lenders to determine reasonable value of property under this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report relating to the exercise of that authority during the year in which the authority was exercised.

(5) A report submitted pursuant to paragraph (4) of this subsection shall include, for the period covered by each report—

(A) the number and value of loans made by lenders exercising the authority of this subsection;

(B) the number and value of such loans reviewed by the appraisal-review monitors referred to in paragraph (2) of this subsection;

(C) the number and value of loans made under this subsection of which the Secretary received notification of default;

(D) the amount of guaranty paid by the Secretary to such lenders by reason of defaults on loans as to which reasonable value was determined under this subsection; and

(E) such recommendations as the Secretary considers appropriate to improve the exercise of the authority provided for in this subsection and to protect the interests of the United States.

(Added Pub. L. 99–576, title IV, § 407(a), Oct. 28, 1986, 100 Stat. 3282, § 1831; amended Pub. L. 100–198, § 11(a), (b), Dec. 21, 1987, 101 Stat. 1324; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102–54, § 3(b), (c), June 13,

1991, 105 Stat. 267; renumbered § 3731 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–547, § 7, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104–110, title I, § 101(g), Feb. 13, 1996, 110 Stat. 768.)

CODIFICATION

Another section 11(b) of Pub. L. 100–198 amended section 1810 [now 3710] of this title.

AMENDMENTS

1996—Subsec. (f)(3). Pub. L. 104–110 struck out par. (3) which read as follows: ''The authority provided in this subsection shall terminate on December 31, 1995.''

1992—Subsec. (f)(3). Pub. L. 102–547 substituted ''1995'' for ''1992''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1831 of this title as this section.

Subsec. (f)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3702(d)'' for ''1802(d)''.

Subsec. (f)(3). Pub. L. 102–54, § 3(b), substituted ''December 31, 1992'' for ''October 1, 1990''.

Subsec. (f)(4), (5). Pub. L. 102–54, § 3(c), added pars. (4) and (5).

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100–198, § 11(a)(1), inserted ''subject to subsection (b)(2) and'' at beginning and '', including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers'' before semicolon at end.

Subsec. (b). Pub. L. 100–198, § 11(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 100–198, § 11(b)(1), substituted ''Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall'' for ''The Administrator shall, upon request,''.

Subsec. (d). Pub. L. 100–198, § 11(b)(2), which directed insertion of ''(other than a lender authorized under subsection (f) of this section to determine reasonable value)'' after ''lender'' was executed by making the insertion after ''lender'' the first place it appears in subsec. (d), as the probable intent of Congress, notwithstanding appearance of ''lender'' in subsec. (d)(3).

Subsec. (f). Pub. L. 100–198, § 11(b)(3), added subsec. (f).

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

§ 3732. Procedure on default

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Secretary of such default. Upon receipt of such notice, the Secretary may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. Except as provided in section 3703(e) of this title, if the Secretary makes such a payment, the Secretary shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2) Before suit or foreclosure the holder of the obligation shall notify the Secretary of the default, and within thirty days thereafter the Secretary may, at the Secretary's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forebearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Secretary.

(3) The Secretary may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Secretary shall—

(i) provide the veteran with information and, to the extent feasible, counseling regarding—

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Secretary by means of a deed in lieu of foreclosure, and the actions authorized by paragraph (2) of this subsection; and

(II) what the Department of Veterans Affairs' and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Secretary has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

(B) The Secretary shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

(5) In the event of default in the payment of any loan guaranteed or insured under this chapter in which a partial payment has been tendered by the veteran concerned and refused by the holder, the holder of the obligation shall notify the Secretary as soon as such payment has been refused. The Secretary may require that any such notification include a statement of the circumstances of the default, the amount tendered, the amount of the indebtedness on the date of the tender, and the reasons for the holder's refusal.

(b) With respect to any loan made under section 3711 which has not been sold as provided in subsection (g) of such section, if the Secretary finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Secretary shall (1) extend the time for curing the default to such time as the Secretary determines is necessary and desirable

to enable such veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Secretary may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(c)(1) For purposes of this subsection—

(A) The term ''defaulted loan'' means a loan that is guaranteed under this chapter, that was made for a purpose described in section 3710(a) of this title, and that is in default.

(B) The term ''liquidation sale'' means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term ''net value'', with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost to the Government of borrowing funds.

(D) Except as provided in subparagraph (D) of paragraph (10) of this subsection, the term ''total indebtedness'', with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date applicable under paragraph (10) of this subsection, and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by regulations prescribed by the Secretary to implement this subsection) associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

(B) This subsection does not apply to a case in which the Secretary proceeds under subsection (a)(2) of this section.

(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Secretary of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Secretary to implement this subsection.

(B) After receiving a notice described in subparagraph (A) of this paragraph, the Secretary shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

(A) the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan does not acquire the property securing the loan at the liquidation sale, the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (A) the amount of such total indebtedness, minus (B) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and—

(A)(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; or

(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6) of this subsection.

(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

(A) the Secretary may not accept conveyance of the property from the holder of the loan; and

(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 3703(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Secretary.

(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Secretary may specify pursuant to regulations prescribed by the Secretary to implement this subsection).

(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forebearance at the request of the Secretary, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forebearance was requested and prior to the date of such sale, as the Secretary specifies pursuant to regulations which the Secretary shall prescribe to implement this paragraph.

(ii) The Secretary may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Secretary is authorized, under paragraph (5)(A) or (7)(A) of this subsection, to accept conveyance of the property.

(C) In any case in which there is an excessive delay in such liquidation sale caused—

(i) by the Department of Veterans Affairs (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Secretary specifies pursuant to regulations which the Secretary shall prescribe to implement this paragraph.

(D) For the purpose of determining the liability of the United States under a loan guaranty under clause (B) of paragraphs (5), (6),[1] (7), and (8) of this subsection, the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Department of Veterans Affairs in the liquidation sale of the property securing such loan, any interest which had accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

(11) This subsection shall apply to loans closed before October 1, 2012.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1212, § 1816(a)–(c); Pub. L. 89–117, title I, § 107(f), Aug. 10, 1965, 79 Stat. 460; Pub. L. 94–324, § 7(17), June 30, 1976, 90 Stat. 722; Pub. L. 98–369, div. B, title V, § 2512(a), July 18, 1984, 98 Stat. 1117; Pub. L. 100–198, §§ 4(a), 5(a), Dec. 21, 1987, 101 Stat. 1316; renumbered § 1832 and amended Pub. L. 100–322, title IV, § 415(b)(1)(A)–(C), (5), May 20, 1988, 102 Stat. 550, 551; Pub. L. 101–237, title III, §§ 304(b), 307–308(b)(1), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2073–2075, 2077; Pub. L. 102–54, §§ 1, 3(a), 14(g)(1), June 13, 1991, 105 Stat. 267, 288; renumbered § 3732 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–66, title XII, § 12006(a), Aug. 10, 1993, 107 Stat. 414; Pub. L. 103–446, title IX, § 907, Nov. 2, 1994, 108 Stat. 4677; Pub. L. 105–33, title VIII, § 8013, Aug. 5, 1997, 111 Stat. 664; Pub. L. 106–419, title IV, § 402(c), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 107–103, title IV, § 405(d), Dec. 27, 2001, 115 Stat. 994; Pub. L. 108–183, title IV, § 406, Dec. 16, 2003, 117 Stat. 2666.)

AMENDMENTS

2003—Subsec. (c)(11). Pub. L. 108–183 substituted ''October 1, 2012'' for ''October 1, 2011''.

2001—Subsec. (c)(11). Pub. L. 107–103 substituted ''October 1, 2011'' for ''October 1, 2008''.

2000—Subsec. (c)(11). Pub. L. 106–419 substituted ''October 1, 2008'' for ''October 1, 2002''.

1997—Subsec. (c)(11). Pub. L. 105–33 substituted ''October 1, 2002'' for ''October 1, 1998''.

1994—Subsec. (c)(6). Pub. L. 103–446, § 907(b), struck out ''either'' after ''defaulted loan'', substituted ''sale,'' for ''sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—'', struck out text of subpar. (A) and subpar. (B) designation before ''the liability'', and redesignated cls. (i) and (ii) as cls. (A) and (B), respectively. Prior to amendment, subpar. (A) read as follows: ''the Secretary may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and''.

Subsec. (c)(7). Pub. L. 103–446, § 907(a)(1), struck out ''that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—'' after ''net value and'' in introductory provisions.

Subsec. (c)(7)(A). Pub. L. 103–446, § 907(a)(2), substituted ''(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to'' for ''the Secretary may accept conveyance of the property to the United States for a price not exceeding'' and ''loan; or'' for ''loan; and'' and added cl. (ii).

Subsec. (c)(7)(B). Pub. L. 103–446, § 907(a)(3), substituted ''paragraph (6)'' for ''paragraph (6)(B)''.

1993—Subsec. (c)(1)(C). Pub. L. 103–66, § 12006(a)(1), inserted ''(including losses sustained on the resale of the property)'' after ''resale''.

Subsec. (c)(11). Pub. L. 103–66, § 12006(a)(2), substituted ''shall apply to loans closed before October 1, 1998'' for ''shall cease to have effect on December 31, 1992''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1832 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3703(e)'' for ''1803(e)''.

Subsec. (a)(4)(C). Pub. L. 102–54, § 1, struck out subpar. (C) which read as follows: ''The authority to carry out this paragraph shall terminate on March 1, 1991.''

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3711'' for ''1811''.

Subsec. (c)(1)(A). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a)'' for ''1810(a)''.

Subsec. (c)(9). Pub. L. 102–83, § 5(c)(1), substituted ''3703(b)'' for ''1803(b)''.

[1] So in original. The reference to clause (B) of paragraph (6) probably should be to paragraph (6) in its entirety.

Subsec. (c)(11). Pub. L. 102–54, § 3(a), substituted ''December 31, 1992'' for ''October 1, 1991''.

1989—Subsec. (a). Pub. L. 101–237, § 313(b)(1), (2), substituted ''Secretary'', ''Secretary's'', and ''Department of Veterans Affairs'' for ''Administrator'', ''Administrator's'', and ''Veterans' Administration's'', respectively, wherever appearing.

Pub. L. 101–237, § 304(b), substituted ''Except as provided in section 1803(e) of this title, if'' for ''If'' in last sentence of par. (1).

Subsec. (a)(5). Pub. L. 101–237, § 307, added par. (5).

Subsecs. (b), (c). Pub. L. 101–237, § 313(b)(1), (2), substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

Subsec. (c)(1)(C)(ii). Pub. L. 101–237, § 308(a), inserted '', excluding any amount attributed to the cost to the Government of borrowing funds'' before period at end.

Subsec. (c)(11). Pub. L. 101–237, § 308(b)(1), substituted ''October 1, 1991'' for ''October 1, 1989''.

1988—Pub. L. 100–322, § 415(b)(1)(C), (5)(A), redesignated section catchline of section 1816 of this title as section catchline of this section and struck out former catchline which read as follows: ''Furnishing information to real estate professionals to facilitate the disposition of properties''.

Subsec. (a). Pub. L. 100–322, § 415(b)(1)(A), (C), redesignated subsec. (a) of section 1816 of this title as subsec. (a) of this section, and in par. (4)(A)(i)(I) substituted ''paragraph (2) of this subsection'' for ''section 1816(a)(2) of this title''.

Subsec. (b). Pub. L. 100–322, § 415(b)(1)(C), redesignated subsec. (b) of section 1816 of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 100–322, § 415(b)(1)(B), (C), redesignated subsec. (c) of section 1816 of this title as subsec. (c) of this section, in par. (10)(A) inserted ''(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)'' before period at end, and in par. (10)(B)(ii) inserted ''(5)(A) or'' after ''under paragraph''.

1987—Subsec. (a)(4). Pub. L. 100–198, § 4(a), added par. (4).

Subsec. (c)(1)(D). Pub. L. 100–198, § 5(a)(1)–(3), substituted ''Except as provided in subparagraph (D) of paragraph (10) of this subsection, the'' for ''The'' at beginning, ''applicable under paragraph (10) of this subsection, and'' for ''of the liquidation sale of the property securing the loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection), and'' in cl. (ii), and ''regulations prescribed by the Administrator to implement this subsection'' for ''such regulations'' in cl. (iii).

Subsec. (c)(10), (11). Pub. L. 100–198, § 5(a)(4), added pars. (10) and (11).

1984—Subsec. (a)(1). Pub. L. 98–369, § 2512(a)(1)(A)–(C), designated existing first sentence as par. (1), substituted ''Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section,'' for ''Administrator who shall thereupon'', and substituted ''guaranteed. If the Administrator makes a payment, the Administrator shall'' for ''guaranteed, and shall''.

Subsec. (a)(2). Pub. L. 98–369, § 2512(a)(1)(A), designated existing second and third sentences as par. (2).

Subsec. (a)(3). Pub. L. 98–369, § 2512(a)(1)(A), designated existing fourth sentence as par. (3).

Subsec. (c). Pub. L. 98–369, § 2512(a)(2), added subsec. (c).

1976—Subsec. (a). Pub. L. 94–324 substituted ''the Administrator's'' for ''his''.

Subsec. (b). Pub. L. 94–324 substituted ''the Administrator'' for ''he'' wherever appearing.

1965—Pub. L. 89–117 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Section 12006(b) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall become effective October 1, 1993.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 308(b)(2) of Pub. L. 101–237 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1989.''

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 4(b) of Pub. L. 100–198 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on March 1, 1988.''

Section 5(c) of Pub. L. 100–198 provided that: ''The amendments made by subsection (a) [amending this section] shall apply to defaults which occur more than 60 days after the date of the enactment of this Act [Dec. 21, 1987].''

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 1(a) of Pub. L. 100–136 provided that: ''Notwithstanding section 2512(c) of the Deficit Reduction Act of 1984 (Public Law 98–369) [set out below], the provisions of section 1816(c) [now 3732(c)] of title 38, United States Code, shall continue in effect through November 15, 1987.''

Section 2512(c)(1) of Pub. L. 98–369 provided that: ''The amendments made by subsection (a) [amending subsec. (a) and adding subsecs. (c) and (d) of section 1816 [now 3732(a), (c) and 3733(a)] of this title] shall take effect on October 1, 1984.''

Section 2512(c)(2) of Pub. L. 98–369, which provided that subsecs. (c) and (d) of section 1816 [now 3732(a), (c) and 3733(a)] of this title] would cease to be effective on Oct. 1, 1987, was repealed by Pub. L. 100–198, § 5(b), Dec. 21, 1987, 101 Stat. 1317.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–324 effective June 30, 1976, see section 9(a) of Pub. L. 94–324, set out as a note under section 3701 of this title.

''NET VALUE'' DEFINED WITH RESPECT TO LOANS CLOSED BEFORE OCTOBER 1, 1993

Pub. L. 102–389, title I, Oct. 6, 1992, 106 Stat. 1574, provided in part: ''That notwithstanding the provisions of 38 U.S.C. 3732(c)(1)(C) and (c)(11) or any other law, with respect to any loan guaranteed for any purpose specified in 38 U.S.C. 3710 which was closed before October 1, 1993, the term 'net value' for purposes of paragraphs (4) through (10) of 38 U.S.C. 3732[(c)] shall mean 'the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost of the Government of borrowing funds'.''

§ 3733. Property management

(a)(1) Of the number of purchases made during any fiscal year of real property acquired by the Secretary as the result of a default on a loan guaranteed under this chapter for a purpose described in section 3710(a) of this title, not more than 65 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Secretary. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Secretary determines that such an increase is necessary in

order to maintain the effective functioning of the loan guaranty program.

(2) After September 30, 1990, the percentage limitations described in paragraph (1) of this subsection shall have no effect.

(3) The Secretary may, beginning on October 1, 1990, sell any note evidencing a loan referred to in paragraph (1)—

(A) with recourse; or

(B) without recourse, but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.

(4)(A) Except as provided in subparagraph (B), the amount of a loan made by the Secretary to finance the purchase of real property from the Secretary described in paragraph (1) may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Secretary may waive the provisions of subparagraph (A) in the case of any loan described in paragraph (5).

(ii) A loan described in subparagraph (A) may, to the extent the Secretary determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.

(5) The Secretary may include, as part of a loan to finance a purchase of real property from the Secretary described in paragraph (1), an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

(6) The Secretary shall make a loan to finance the sale of real property described in paragraph (1) at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Secretary determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans Housing Benefit Program Fund established by section 3722(a) of this title.

(7) During the period that begins on the date of the enactment of the Veterans' Benefits Act of 2003 and ends on September 30, 2013, the Secretary shall carry out the provisions of this subsection as if—

(A) the references in the first sentence of paragraph (1) to ''65 percent'' and ''may be financed'' were references to ''85 percent'' and ''shall be financed'', respectively;

(B) the second sentence of paragraph (1) were repealed; and

(C) the reference in paragraph (2) to ''September 30, 1990,'' were a reference to ''September 30, 2013,''.

(b) The Secretary may not make a loan to finance a purchase of property acquired by the Secretary as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 3710(g)(2)(A) of this title.

(c)(1) The Secretary shall identify and compile information on common factors which the Secretary finds contribute to foreclosures on loans guaranteed under this chapter.

(2) The Secretary shall include a summary of the information compiled, and the Secretary's findings, under paragraph (1) in the annual report submitted to the Congress under section 529 of this title. As part of such summary and findings, the Secretary shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

(d)(1) The Secretary shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Department of Veterans Affairs to dispose of such property.

(2) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Secretary as the result of a default on a loan guaranteed, insured, or made under this chapter, the Secretary shall list all such property with real estate brokers under such arrangements as the Secretary determines to be most appropriate and cost effective.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1212, §§ 1816(d)–(f), 1832; Pub. L. 98–369, div. B, title V, § 2512(a)(2), July 18, 1984, 98 Stat. 1117; Pub. L. 99–576, title IV, §§ 402(c)(1), 403, 408(a), Oct. 28, 1986, 100 Stat. 3281, 3283; Pub. L. 100–136, § 2, Oct. 16, 1987, 101 Stat. 813; Pub. L. 100–198, §§ 6(a)(1), (b)(1), 14, Dec. 21, 1987, 101 Stat. 1317, 1318, 1325; Pub. L. 100–203, title VII, §§ 7001, 7003(a), Dec. 22, 1987, 101 Stat. 1330–278, 1330–279; Pub. L. 100–253, § 2, Feb. 29, 1988, 102 Stat. 20; renumbered § 1833 and amended Pub. L. 100–322, title IV, § 415(b)(1)(D), (5)(B), (C), May 20, 1988, 102 Stat. 550, 551; Pub. L. 100–689, title III, § 301, Nov. 18, 1988, 102 Stat. 4176; Pub. L. 101–237, title III, §§ 305(a), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2073, 2077; Pub. L. 101–239, title V, §§ 5002, 5003(a), Dec. 19, 1989, 103 Stat. 2136; Pub. L. 102–54, §§ 2, 14(g)(1), 15(a)(5), June 13, 1991, 105 Stat. 267, 288, 289; renumbered § 3733 and amended Pub. L. 102–83, §§ 2(c)(3), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402, 406; Pub. L. 102–291, § 5(b), May 20, 1992, 106 Stat. 180; Pub. L. 105–368, title VI, § 602(c)(2), (e)(1)(E), Nov. 11, 1998, 112 Stat. 3346; Pub. L. 108–183, title IV, § 404, Dec. 16, 2003, 117 Stat. 2664.)

REFERENCES IN TEXT

The date of the enactment of the Veterans' Benefits Act of 2003, referred to in subsec. (a)(7), is the date of enactment of Pub. L. 108–183, which was approved Dec. 16, 2003.

AMENDMENTS

2003—Subsec. (a)(4)(A). Pub. L. 108–183, § 404(b)(1)(A), (2), struck out ''of this paragraph'' after ''subparagraph (B)'' and ''of this subsection'' after ''paragraph (1)''.

Subsec. (a)(4)(B)(i). Pub. L. 108–183, § 404(b)(1)(B), (2), struck out ''of this paragraph'' after ''subparagraph (A)'' and ''of this subsection'' after ''paragraph (5)''.

Subsec. (a)(4)(B)(ii). Pub. L. 108–183, § 404(b)(2), struck out ''of this paragraph'' after ''subparagraph (A)''.

Subsec. (a)(5), (6). Pub. L. 108–183, § 404(b)(1)(A), struck out ''of this subsection'' after ''paragraph (1)''.

Subsec. (a)(7). Pub. L. 108–183, § 404(a), added par. (7).

Subsec. (c)(2). Pub. L. 108–183, § 404(b)(1)(A), struck out ''of this subsection'' after ''paragraph (1)''.

1998—Subsec. (a)(6). Pub. L. 105–368, § 602(e)(1)(E), substituted ''Veterans Housing Benefit Program Fund established by section 3722(a)'' for ''Department of Veterans Affairs Loan Guaranty Revolving Fund established by section 3724(a)''.

Subsec. (e). Pub. L. 105–368, § 602(c)(2), struck out subsec. (e) which read as follows: ''Notwithstanding any other provision of law, the amount received from the sale of any note evidencing a loan secured by real property described in subsection (a)(1) of this section, and the amount received from the sale of securities under section 3720(h) of this title, shall be credited, without any reduction and for the fiscal year in which the amount is received, as offsetting collections of—

''(1) the revolving fund for which a fee under section 3729 of this title was collected (or was exempted from being collected) at the time of the original guaranty of the loan that was secured by the same property; or

''(2) in any case in which there was no requirement of (or exemption from) a fee at the time of the original guaranty of the loan that was secured by the same property, the Loan Guaranty Revolving Fund; and

the total so credited to any revolving fund for a fiscal year shall offset outlays attributed to such revolving fund during such fiscal year.''

1992—Subsec. (e). Pub. L. 102–291 inserted '', and the amount received from the sale of securities under section 3720(h) of this title,''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1833 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''3710(a)'' for ''1810(a)''.

Subsec. (a)(2). Pub. L. 102–54, § 2(a), added par. (2) and struck out former par. (2) which read as follows: ''In carrying out paragraph (1) of this subsection, the Secretary, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Secretary to finance purchases of real property from the Secretary described in that paragraph.''

Subsec. (a)(3). Pub. L. 102–54, § 2(a), added par. (3) and struck out former par. (3) which authorized sales before Oct. 1, 1990, of notes for loans under subsec. (a)(1) and required Secretary to make reports of such sales to Committees on Veterans' Affairs of Senate and House of Representatives.

Subsec. (a)(6). Pub. L. 102–83, § 5(c)(1), substituted ''3724(a)'' for ''1824(a)''.

Pub. L. 102–54, § 3(b), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: ''This subsection shall cease to have effect on December 31, 1990.''

Subsec. (a)(7). Pub. L. 102–54, § 3(b)(2), redesignated par. (7) as (6).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3710(g)(2)(A)'' for ''1810(g)(2)(A)''.

Subsec. (c)(2). Pub. L. 102–83, § 2(c)(3), substituted ''section 529'' for ''section 214''.

Subsec. (d). Pub. L. 102–54, § 14(g)(1), made a technical amendment to Pub. L. 100–322, § 415(b)(5)(C). See 1988 Amendment note below.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''3729'' for ''1829'' in par. (1).

Pub. L. 102–54, § 15(a)(5), struck out subsec. (e) as added by Pub. L. 101–239, § 5003(a), which was identical to subsec. (e) added by Pub. L. 101–237, § 305(a)(3). See 1989 Amendment note below.

1989—Subsec. (a). Pub. L. 101–237 § 313(b)(1), (2), substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 101–239, § 5002, substituted ''October 1, 1990'' for ''October 1, 1989'' wherever appearing.

Pub. L. 101–237, § 305(a)(1), which directed the amendment of subpar. (A) by substituting ''Subject to subparagraph (C) of this paragraph,'' for ''Before October 1, 1990,'' the amendment of subparagraph (B) by striking out ''occurring before October 1, 1990,'' after ''of this paragraph'', and the amendment of subpar. (C) by substituting ''October 1, 1989'' for ''October 1, 1990'' in introductory provisions, did not become effective, see section 305(b)(1) of Pub. L. 101–237, set out as an Effective Date of 1989 Amendments note below.

Subsec. (a)(6). Pub. L. 101–237, § 305(a)(2), substituted ''December 31'' for ''October 1''.

Subsecs. (b) to (d). Pub. L. 101–237, § 313(b)(1), (2), substituted ''Secretary'', ''Secretary's'', and ''Department of Veterans Affairs'' for ''Administrator'', ''Administrator's'', and ''Veterans' Administration'', respectively, wherever appearing.

Subsec. (e). Pub. L. 101–237, § 305(a)(3), and Pub. L. 101–239, § 5003(a), amended section identically adding identical subsecs. (e).

1988—Pub. L. 100–322, § 415(b)(1)(D), added section catchline.

Subsec. (a). Pub. L. 100–322, § 415(b)(1)(D), redesignated subsec. (d) of section 1816 of this title as subsec. (a) of this section.

Subsec. (a)(4)(B) [formerly § 1816(d)(4)(B)]. Pub. L. 100–253 designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(7). Pub. L. 100–689 added par. (7).

Subsecs. (b), (c). Pub. L. 100–322, § 415(b)(1)(D), redesignated subsecs. (e) and (f) of section 1816 of this title as subsecs. (b) and (c), respectively, of this section.

Subsec. (d). Pub. L. 100–322, § 415(b)(5)(B), (C), as amended by Pub. L. 102–54, § 14(g)(1), redesignated subsecs. (a) and (b) of section 1832 of this title as pars. (1) and (2), respectively, of subsec. (d) of this section.

1987—Subsec. (a)(1) [formerly § 1816(d)(1)]. Pub. L. 100–198, § 6(a)(1), and Pub. L. 100–203, § 7003(a), amended par. (1) identically, substituting ''not more than 65 percent, nor less than 50 percent'' for ''not more than 75 percent, nor less than 60 percent''. See 1988 Amendment note above.

Subsec. (a)(3) [formerly § 1816(d)(3)]. Pub. L. 100–203, § 7001, added subpars. (A) and (B), redesignated existing provisions as subpar. (C), substituted ''Beginning on October 1, 1989, the Administrator may sell any note evidencing'' for ''The Administrator may sell any note securing'', and redesignated cls. (A) and (B) as (i) and (ii), respectively. See 1988 Amendment note above.

Pub. L. 100–136 amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''Notes securing such loans may be sold with recourse only to the extent that the Administrator determines that selling such notes with recourse is necessary in order to maintain the effective functioning of the loan guaranty program under this chapter.'' See 1988 Amendment note above.

Subsec. (a)(4) to (6) [formerly § 1816(d)(4) to (6)]. Pub. L. 100–198, § 6(b)(1), added pars. (4) to (6). See 1988 Amendment note above.

Subsec. (d) [formerly § 1832]. Pub. L. 100–198, § 14, designated existing provisions as subsec. (a) and added subsec. (b). See 1988 Amendment note above.

1986—Subsec. (b) [formerly § 1816(e)]. Pub. L. 99–576, § 402(c)(1), added subsec. (e). See 1988 Amendment note above.

Subsec. (c) [formerly § 1816(f)]. Pub. L. 99–576, § 403, added subsec. (f). See 1988 Amendment note above.

Subsec. (d) [formerly § 1832]. Pub. L. 99–576, § 408(a), enacted section. See 1988 Amendment note above.

1984—Subsec. (a) [formerly § 1816(d)]. Pub. L. 98–369, § 2512(a)(2), added subsec. (d). See 1988 Amendment note above.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 14(g)(1) of Pub. L. 102–54 provided that the amendment made by that section is effective as of May 20, 1988.

EFFECTIVE DATE OF 1989 AMENDMENTS

Section 5003(b) of Pub. L. 101–239 provided that: ''Subsection (e) of section 1833 [now 3733] of title 38, United States Code, as added by subsection (a), shall apply with respect to amounts referred to in such subsection (e) received on or after October 1, 1989.''

Section 305(b)(1) of Pub. L. 101–237, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''If, before the date and time of the enactment of this Act [Dec. 18, 1989], no provision of law has been enacted amending section 1833 [now 3733] of title 38, United States Code, by adding a new subsection (e) with a text substantively identical to the text of the new subsection (e) added to such section 1833 [now 3733] by subsection (a)(3) of this section, the provisions of subsection (a)(1) of this section amending subsection (a)(3) of such section 1833 [now 3733] shall not take effect.''

Section 305(b)(2) of Pub. L. 101–237, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''Subsection (e) of section 1833 [now 3733] of such title 38, as added by subsection (a)(3), shall apply with respect to amounts referred to in such subsection (e) received after September 30, 1989.''

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 7003(b) of Pub. L. 100–203 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1987.''

Section 6(a)(2) of Pub. L. 100–198 provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect as of October 1, 1987.''

Section 6(b)(2) of Pub. L. 100–198 provided that: ''The amendment made by this subsection [amending this section] shall apply to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987].''

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 effective Oct. 1, 1984, see section 2512(c) of Pub. L. 98–369, as amended, set out as a note under section 3732 of this title.

RULE FOR CONSTRUCTION OF DUPLICATE PROVISIONS

Section 7004(b) of title VII of Pub. L. 100–203 provided that: ''In applying the provisions of this title [title VII of Pub. L. 100–203] and the provisions of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 [Pub. L. 100–198] which make the same amendments as the provisions of this title [amending sections 1816 [now 3733] and 1829 [now 3729] of this title]—

''(1) the identical provisions of title 38, United States Code, amended by the provisions of this title and the provisions of such Act shall be treated as having been amended only once; and

''(2) in executing to title 38, United States Code, the amendments made by this title and by such Act, such amendments shall be executed so as to appear only once in the law.''

REPORT TO CONGRESS

Section 6(c) of Pub. L. 100–198 directed Administrator of Veterans' Affairs, by Mar. 1, 1990, to transmit to Congress a report of activities carried out, through Dec. 31, 1989, under paragraphs (4) and (5) of section 1816(d) of this title [which became pars. (4) and (5) of subsec. (a) of this section].

§ 3734. Annual submission of information on the Veterans Housing Benefit Program Fund and housing programs

(a) In the documents providing detailed information on the budget for the Department of Veterans Affairs that the Secretary submits to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, the Secretary shall include—

(1) a description of the operations of the Veterans Housing Benefit Program Fund during the fiscal year preceding the fiscal year in which such budget is submitted; and

(2) the needs of such fund, if any, for appropriations for—

(A) the fiscal year in which the budget is submitted; and

(B) the fiscal year for which the budget is submitted.

(b) The matters submitted under subsection (a) of this section shall include, with respect to the fund referred to in subsection (a), the following:

(1) Information and financial data on the operations of the fund during the fiscal year before the fiscal year in which such matters are submitted and estimated financial data and related information on the operation of the fund for—

(A) the fiscal year of the submission; and

(B) the fiscal year following the fiscal year of the submission.

(2) Estimates of the amount of revenues derived by the fund in the fiscal year preceding the fiscal year of the submission, in the fiscal year of the submission, and in the fiscal year following the fiscal year of the submission from each of the following sources:

(A) Fees collected under section 3729(a) of this title for each category of loan guaranteed, insured, or made under this chapter or collected under section 3729(b) of this title for assumed loans.

(B) Investment income.

(C) Sales of foreclosed properties.

(D) Loan asset sales.

(E) Each additional source of revenue.

(3) Information, for each fiscal year referred to in paragraph (2) of this subsection, regarding the types of dispositions made and anticipated to be made of defaults on loans guaranteed, insured, or made under this chapter, including the cost to the fund, and the numbers, of such types of dispositions.

(c) The information submitted under subsection (a) shall include a statement that summarizes the financial activity of each of the housing programs operated under this chapter. The statement shall be presented in a form that is simple, concise, and readily understandable, and shall not include references to financing accounts, liquidating accounts, or program accounts.

(Added Pub. L. 101–237, title III, § 302(b)(1), Dec. 18, 1989, 103 Stat. 2070, § 1834; renumbered § 3734 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title VI, § 602(d), (e)(1)(F), (3)(A), Nov. 11, 1998, 112 Stat. 3346, 3347; Pub. L. 107–14, § 8(a)(9), June 5, 2001, 115 Stat. 35; Pub. L. 107–330, title III, § 308(g)(12), Dec. 6, 2002, 116 Stat. 2829.)

AMENDMENTS

2002—Subsec. (b)(2)(B) to (F). Pub. L. 107–330 redesignated subpars. (C) to (F) as (B) to (E), respectively, and struck out former subpar. (B) which read as follows: ''Federal Government payments under section 3729(a)(3) of this title.''

2001—Subsec. (a). Pub. L. 107–14, § 8(a)(9)(A), struck out ''United States Code,'' after ''section 1105 of title 31,'' in introductory provisions.

Subsec. (a)(2). Pub. L. 107–14, § 8(a)(9)(B), substituted ''appropriations for'' for ''appropriations in''.

1998—Pub. L. 105–368, § 602(e)(3)(A), substituted ''Veterans Housing Benefit Program Fund and housing programs'' for ''Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund'' in section catchline.

Subsec. (a)(1). Pub. L. 105–368, § 602(e)(1)(F)(i)(I), substituted ''Veterans Housing Benefit Program Fund'' for ''Loan Guaranty Revolving Fund and the Guaranty and Indemnity Fund''.

Subsec. (a)(2). Pub. L. 105–368, § 602(e)(1)(F)(i)(II), substituted ''fund,'' for ''funds,'' in introductory provisions.

Subsec. (b). Pub. L. 105–368, § 602(e)(1)(F)(ii), substituted ''the fund'' for ''each fund'' in introductory provisions.

Subsec. (b)(2)(B) to (G). Pub. L. 105–368, § 602(e)(1)(F)(iii), redesignated subpars. (C) to (G) as (B) to (F), respectively, in subpar. (B), substituted ''section 3729(a)(3)'' for ''subsections (a)(3) and (c)(2) of section 3729'', and struck out former subpar. (B) which read as follows: ''Federal Government contributions made under clauses (A) and (B) of section 3725(c)(2) of this title.''

Subsec. (c). Pub. L. 105–368, § 602(d), added subsec. (c).

1991—Pub. L. 102–83, § 5(a), renumbered section 1834 of this title as this section.

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3729(a)'' for ''1829(a)'' and ''3729(b)'' for ''1829(b)'' in subpar. (A), ''3725(c)(2)'' for ''1825(c)(2)'' in subpar. (B), and ''3729'' for ''1829'' in subpar. (C).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

[§ 3735. Renumbered § 2041]

§ 3736. Reporting requirements

The annual report required by section 529 of this title shall include a discussion of the activities under this chapter. Beginning with the report submitted at the close of fiscal year 1996, and every second year thereafter, this discussion shall include information regarding the following:

(1) Loans made to veterans whose only qualifying service was in the Selected Reserve.

(2) Interest rates and discount points which were negotiated between the lender and the veteran pursuant to section 3703(c)(4)(A)(i) of this title.

(3) The determination of reasonable value by lenders pursuant to section 3731(f) of this title.

(4) Loans that include funds for energy efficiency improvements pursuant to section 3710(a)(10) of this title.

(5) Direct loans to Native American veterans made pursuant to subchapter V of this chapter.

(Added Pub. L. 104–110, title II, § 201(a)(1), Feb. 13, 1996, 110 Stat. 770.)

SUBCHAPTER IV—SMALL BUSINESS LOANS

§ 3741. Definitions

For the purposes of this subchapter—

(1) The term ''disabled veteran'' means (A) a veteran who is entitled to compensation under laws administered by the Secretary for a disability rated at 30 percent or more, or (B) a veteran whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

(2) The term ''veteran of the Vietnam era'' means a person (A) who served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and who was discharged or released therefrom with other than a dishonorable discharge, or (B) who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1055, § 1841; amended Pub. L. 99–576, title VII, § 702(9), Oct. 28, 1986, 100 Stat. 3302; renumbered § 3741 and amended Pub. L. 102–83, §§ 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1841 of this title as this section.

Par. (1). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''percent'' for ''per centum'' in par. (1) and ''180'' for ''one hundred and eighty'' in par. (2).

EFFECTIVE DATE

Section 305 of title III of Pub. L. 97–72 provided that: ''The amendments made by this title [see Tables for classification] shall take effect at the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act [Nov. 3, 1981], except that the authority of the Administrator of Veterans' Affairs to promulgate regulations under subchapter IV of chapter 37 of title 38, United States Code (as added by section 302), shall take effect on such date of enactment.''

SHORT TITLE

For short title of title III of Pub. L. 97–72, which enacted this subchapter, as the ''Veterans' Small Business Loan Act of 1981'', see section 301 of Pub. L. 97–72, set out as a Short Title of 1981 Amendments note under section 101 of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 304 of Pub. L. 97–72 authorized to be appropriated a total of $750,000 for fiscal years 1982 through 1986 for use by Administrator of Veterans' Affairs for expenses incidental to establishment of small business loan program authorized by subchapter IV of this chapter.

§ 3742. Small business loan program

(a)(1) Subject to subsection (b) of this section, the Secretary may provide financial assistance to veterans' small business concerns for the purpose of (A) financing plant construction, conversion, or expansion (including the acquisition of land), (B) financing the acquisition of equipment, facilities, machinery, supplies, or materials, or (C) supplying such concerns with working capital.

(2) Subject to paragraph (3)(A) of this subsection, financial assistance under this section may be provided in the form of (A) loan guaranties, or (B) direct loans.

(3) The Secretary shall specify in regulations the criteria to be met for a business concern to qualify as a veterans' small business concern for the purposes of this subchapter. Such regulations shall include requirements—

(A) that at least 51 percent of a business concern must be owned by individuals who are veterans of the Vietnam era or disabled veterans in order for such concern to qualify for a

loan guaranty and that at least 51 percent of a business concern must be owned by disabled veterans in order for such concern to qualify for a direct loan; and

(B) that the management and daily business operations of the concern must be directed by one or more of the veterans whose ownership interest is part of the majority ownership for the purposes of meeting the requirement in clause (A) of this paragraph.

(b) The availability of financial assistance under subsection (a) of this section is subject to the following limitations:

(1) The Secretary may not make a direct loan under this section unless the veterans' small business concern applying for the loan shows to the satisfaction of the Secretary that the concern is unable to obtain a loan guaranteed by the Department under this section or made or guaranteed by the Small Business Administration.

(2) The Secretary may not guarantee a loan under this section if the loan bears a rate of interest in excess of the maximum rate of interest prescribed under section 3745 of this title.

(3) The Secretary may not make or guarantee a loan under this section for an amount in excess of $200,000.

(4) The original liability of the Secretary on any loan guaranteed under this section may not exceed 90 percent of the amount of the loan, and such liability shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the loan, but such liability may not exceed the amount of the original guaranty.

(c) Each loan made or guaranteed under this subchapter shall be of such sound value, taking into account the creditworthiness of the veterans' small business concern (and the individual owners) applying for such loan, or so secured as reasonably to assure payment.

(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not make or guarantee a loan under this subchapter to a veterans' small business concern in which an ownership interest is held by a veteran who also has an ownership interest in another small business concern if such ownership interest was considered in qualifying that other concern for an outstanding loan made or guaranteed under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(2) Paragraph (1) of this subsection shall not apply if 51 percent or more of the business concern seeking a direct or guaranteed loan under this subchapter is owned by veterans of the Vietnam era or disabled veterans without including the ownership interest of the veteran whose ownership interest in another small business concern was previously considered in qualifying that other concern for an outstanding guaranteed or direct business loan under this subchapter or the Small Business Act (15 U.S.C. 631 et seq.).

(e)(1) In order to protect the interest of the United States, upon application by a veterans' small business concern which is the recipient of a loan guaranteed under this subchapter, the Secretary (subject to the provisions of this subsection) may undertake the veterans' small business concern's obligation to make payments under such loan or, if the loan was a direct loan made by the Secretary, may suspend such obligation. While such payments are being made by the Secretary pursuant to the undertaking of such obligation or while such obligation is suspended, no such payment with respect to the loan may be required from the concern.

(2) The Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection only if—

(A) such undertaking or suspension of the obligation is, in the judgment of the Secretary, necessary to protect the interest of the United States;

(B) with the undertaking or suspension of the obligation, the small business concern would, in the judgment of the Secretary, become or remain a viable small business entity; and

(C) the small business concern executes an agreement in writing satisfactory to the Secretary as provided by paragraph (4) of this subsection.

(3) The period of time for which the Secretary undertakes or suspends the obligation on a loan under this subsection may not exceed five years. The Secretary may extend the maturity of any loan on which the Secretary undertakes or suspends the obligation under this subsection for a corresponding period of time.

(4)(A) Before the Secretary may undertake or suspend a veterans' small business concern's obligation under this subsection, the Secretary shall require the small business concern to execute an agreement to repay the aggregate amount of the payments which were required under the loan during the period for which the obligation was undertaken or suspended—

(i) by periodic payments not less in amount or less frequently falling due than those which were due under the loan during such period,

(ii) pursuant to a repayment schedule agreed upon by the Secretary and the small business concern, or

(iii) by a combination of the method of payments described in clauses (i) and (ii) of this subparagraph.

(B) In addition to requiring the small business concern to execute the agreement described in subparagraph (A) of this paragraph, the Secretary shall, before the undertaking or suspension of the obligation, take such action and require the small business concern to take such action as the Secretary considers appropriate in the circumstances, including the provision of such security as the Secretary considers necessary or appropriate, to assure that the rights and interest of the United States and any lender will be safeguarded adequately during and after the period in which such obligation is so undertaken or suspended.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1055, § 1842; amended Pub. L. 99–576, title VII, § 702(10), Oct. 28, 1986, 100 Stat. 3302; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3742 and amended Pub. L. 102–83, §§ 4(a)(3), (4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404, 406.)

REFERENCES IN TEXT

The Small Business Act, referred to in subsec. (d), is Pub. L. 85–536, July 18, 1958, 72 Stat. 384, as amended, which is classified generally to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1842 of this title as this section.

Subsec. (b)(1). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3745'' for ''1845''.

1989—Subsecs. (a), (b), (d), (e). Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsecs. (a)(3)(A), (b)(4), (d)(2). Pub. L. 99–576 substituted ''percent'' for ''per centum'' wherever appearing.

§ 3743. Liability on loans

Each individual who has an ownership interest in a veterans' small business concern that is provided a direct loan under this subchapter, or that obtains a loan guaranteed under this subchapter, shall execute a note or other document evidencing the direct or guaranteed business loan, and such individuals shall be jointly and severally liable to the United States for the amount of such direct loan or, in the case of a guaranteed loan, for any amount paid by the Secretary on account of such loan.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1057, § 1843; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3743, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1843 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

§ 3744. Approval of loans by the Secretary

(a) Except as provided in subsection (b) of this section, a loan may not be guaranteed under this subchapter unless, before the closing of the loan, it is submitted to the Secretary for approval and the Secretary grants approval.

(b) The Secretary may exempt any lender of a class of lenders listed in section 3702(d) of this title from the prior approval requirement in subsection (a) of this section if the Secretary determines that the experience of such lender or class of lenders warrants such exemption.

(c) The Secretary may at any time upon thirty days' notice require loans to be made by any lender or class of lenders under this subchapter to be submitted to the Secretary for prior approval. No guaranty shall exist with respect to any such loan unless evidence of the guaranty is issued by the Secretary.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1057, § 1844; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3744 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 1844 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3702(d)'' for ''1802(d)''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' in section catchline and wherever appearing in text.

§ 3745. Interest on loans

(a) Loans guaranteed under this subchapter shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands. In establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Administrator of the Small Business Administration.

(b) The rate of interest on any direct loan made by the Secretary under this subchapter may not exceed the maximum rate in effect under subsection (a) of this section at the time the direct loan is made.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1058, § 1845; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3745 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–446, title XII, § 1201(a)(3), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 substituted ''Administrator'' for ''Secretary'' before ''of the Small Business Administration''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1845 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''of the Small Business Administration''.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' wherever appearing other than third place it appears in subsec. (a).

§ 3746. Maturity of loans

The maturity of a loan made or guaranteed under this subchapter that is used in whole or in part for the construction, conversion, or expansion of facilities or for acquisition of real property may not exceed twenty years plus such additional reasonable time as the Secretary may determine, at the time the loan is made, is required to complete the construction, acquisition, or expansion of such facilities. The maturity of any other loan made or guaranteed under this subchapter may not exceed ten years.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1058, § 1846; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3746, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1846 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

§ 3747. Eligible financial institutions

The Secretary may not guarantee under this subchapter a loan made by an entity not subject to examination and supervision by an agency of the United States or of a State.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1058, § 1847; amended Pub. L.

101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3747, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1847 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

§ 3748. Preference for disabled veterans

In the extension of financial assistance under this subchapter, the Secretary shall give preference, first, to veterans' small business concerns in which disabled veterans who have successfully completed a vocational rehabilitation program for self-employment in a small business enterprise under chapter 31 of this title have a significant ownership interest, and, second, to veterans' small business concerns in which other disabled veterans have a significant ownership interest.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1058, § 1848; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3748, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1848 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

§ 3749. Revolving fund

(a) There is established in the Treasury a revolving fund to be known as the ''Department of Veterans Affairs Small Business Loan Revolving Fund'' (hereinafter in this section referred to as the ''fund'').

(b) Amounts in the fund shall be available to the Secretary without fiscal year limitation for all loan guaranty and direct loan operations under this subchapter other than administrative expenses and may not be used for any other purpose.

(c)(1) There is authorized to be appropriated to the fund a total of $25,000,000.

(2) There shall be deposited into the fund all amounts received by the Secretary derived from loan operations under this subchapter, including all collection of principal and interest and the proceeds from the use of property held or of property sold.

(d) The Secretary shall determine annually whether there has developed in the fund a surplus which, in the Secretary's judgment, is more than necessary to meet the needs of the fund. Any such surplus shall immediately be transferred into the general fund of the Treasury.

(e) Not later than two years after the termination of the authority of the Secretary to make new commitments for financial assistance under this subchapter, the Secretary shall transfer into the general fund of the Treasury all amounts in the fund except those that the Secretary determines may be required for the liquidation of obligations under this subchapter. All amounts received thereafter derived from loan operations under this subchapter, except so much thereof as the Secretary may determine to be necessary for liquidating outstanding obligations under this subchapter, shall also be so deposited.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1058, § 1849; amended Pub. L. 99–576, title VII, § 702(11), Oct. 28, 1986, 100 Stat. 3302; Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3749 and amended Pub. L. 102–83, §§ 4(a)(2)(B)(v), 5(a), Aug. 6, 1991, 105 Stat. 403, 406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 1849 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(2)(B)(v), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1989—Subsecs. (b) to (e). Pub. L. 101–237 substituted ''Secretary'' and ''Secretary's'' for ''Administrator'' and ''Administrator's'', respectively, wherever appearing.

1986—Subsec. (c)(1). Pub. L. 99–576 substituted ''There'' for ''Effective for fiscal year 1982 and fiscal years thereafter, there''.

§ 3750. Incorporation of other provisions by the Secretary

The Secretary may provide that the provisions of sections of other subchapters of this chapter that are not otherwise applicable to loans made or guaranteed under this subchapter shall be applicable to loans made or guaranteed under this subchapter. The Secretary shall exercise authority under the preceding sentence by regulations prescribed after publication in the Federal Register and a period of not less than thirty days for public comment.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1059, § 1850; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3750, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1850 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator'' in section catchline and wherever appearing in text.

§ 3751. Termination of program

The Secretary may not make commitments for financial assistance under this subchapter after September 30, 1986.

(Added Pub. L. 97–72, title III, § 302(a), Nov. 3, 1981, 95 Stat. 1059, § 1851; amended Pub. L. 101–237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3751, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1851 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary'' for ''Administrator''.

SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

§ 3761. Pilot program

(a) The Secretary shall establish and implement a pilot program under which the Secretary

may make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall establish and implement the pilot program in accordance with the provisions of this subchapter.

(b) In carrying out the pilot program under this subchapter, the Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

(c) No loans may be made under this subchapter after December 31, 2008.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3636; amended Pub. L. 105–114, title II, § 201(a), Nov. 21, 1997, 111 Stat. 2282; Pub. L. 107–103, title IV, § 402(a), Dec. 27, 2001, 115 Stat. 993; Pub. L. 108–454, title IV, § 407, Dec. 10, 2004, 118 Stat. 3617.)

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–454 substituted ''December 31, 2008'' for ''December 31, 2005''.

2001—Subsec. (c). Pub. L. 107–103 substituted ''December 31, 2005'' for ''December 31, 2001''.

1997—Subsec. (c). Pub. L. 105–114 substituted ''December 31, 2001'' for ''September 30, 1997''.

CONSULTATION WITH ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS

Section 8(b) of Pub. L. 102–547 provided that: ''In carrying out the direct housing loan pilot program authorized under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), the Secretary of Veterans Affairs shall consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans established under section 19032 of the Veterans' Health-Care Amendments of 1986 [formerly set out as a note under former section 219 of this title] (title XIX of Public Law 99–272; 100 Stat. 388).''

ANNUAL REPORTS ON PILOT PROGRAM

Section 8(d) of Pub. L. 102–547 directed Secretary of Veterans Affairs to transmit report relating to implementation of Native American veterans direct housing loan pilot program established under this subchapter to Committees on Veterans' Affairs of Senate and House of Representatives not later than Feb. 1 of each of years 1994 through 1998, prior to repeal by Pub. L. 104–110, title II, § 201(b), Feb. 13, 1996, 110 Stat. 770.

AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN VETERAN HOUSING LOANS

Section 8(e) of Pub. L. 102–547 provided that: ''New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974 [2 U.S.C. 661a], for such loans are made in advance. There is authorized to be appropriated for such purpose $5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.''

§ 3762. Direct housing loans to Native American veterans

(a) The Secretary may make a direct housing loan to a Native American veteran if—

(1)(A) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; or

(B) the tribal organization that has jurisdiction over the veteran has entered into a memorandum of understanding with any department or agency of the United States with respect to direct housing loans to Native Americans that the Secretary determines substantially complies with the requirements of subsection (b); and

(2) the memorandum is in effect when the loan is made.

(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

(i) to evaluate the advisability of the loan; and

(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

(i) procedures for foreclosing the interest; and

(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that the pilot program established under this subchapter is implemented in a responsible and prudent manner.

(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing

loan made to a Native American under this section may not exceed $80,000.

(B) The Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

(e) Loans made under this section shall be repaid in monthly installments.

(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

(4) in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

(h)(1) The Secretary may make direct loans to Native American veterans in order to enable such veterans to refinance existing loans made under this section.

(2)(A) The Secretary may not make a loan under this subsection unless the loan meets the requirements set forth in subparagraphs (B), (C), and (E) of paragraph (1) of section 3710(e) of this title.

(B) The Secretary may not make a loan under this subsection unless the loan will bear an interest rate at least one percentage point less than the interest rate borne by the loan being refinanced.

(C) Paragraphs (2) and (3) of such section 3710(e) shall apply to any loan made under this subsection, except that for the purposes of this subsection the reference to subsection (a)(8) of section 3710 of this title in such paragraphs (2) and (3) shall be deemed to be a reference to this subsection.

(i)(1) The Secretary shall, in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council), carry out an outreach program to inform and educate Native American veterans of the pilot program provided for under this subchapter and the availability of direct housing loans for Native American veterans who live on trust lands.

(2) Activities under the outreach program shall include the following:

(A) Attending conferences and conventions conducted by the National Congress of American Indians in order to work with the National Congress in providing information and training to tribal organizations and Native American veterans regarding the availability of housing benefits under the pilot program and in assisting such organizations and veterans in participating in the pilot program.

(B) Attending conferences and conventions conducted by the National American Indian Housing Council in order to work with the Housing Council in providing information and training to tribal organizations and tribal housing entities regarding the availability of such benefits.

(C) Attending conferences and conventions conducted by the Department of Hawaiian Homelands in order to work with the Department of Hawaiian Homelands in providing information and training to tribal housing entities in Hawaii regarding the availability of such benefits.

(D) Producing and disseminating information to tribal governments, tribal veterans service organizations, and tribal organizations regarding the availability of such benefits.

(E) Assisting tribal organizations and Native American veterans in participating in the pilot program.

(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.

(j) Not later than February 1 of each year through 2006, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to the implementation of the pilot program under this subchapter during the fiscal year preceding the date of the report. Each such report shall include the following:

(1) The Secretary's exercise during such fiscal year of the authority provided under subsection (c)(1)(B) to make loans exceeding the maximum loan amount.

(2) The appraisals performed for the Secretary during such fiscal year under the authority of subsection (d)(2), including a description of—

(A) the manner in which such appraisals were performed;

(B) the qualifications of the appraisers who performed such appraisals; and

(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States.

(3) The outreach activities undertaken under subsection (i) during such fiscal year, including—

(A) a description of such activities on a region-by-region basis; and

(B) an assessment of the effectiveness of such activities in encouraging the participation of Native American veterans in the pilot program.

(4) The pool of Native American veterans who are eligible for participation in the pilot program, including—

(A) a description and analysis of the pool, including income demographics;

(B) a description and assessment of the impediments, if any, to full participation in the pilot program of the Native American veterans in the pool; and

(C) the impact of low-cost housing programs operated by the Department of Housing and Urban Development and other Federal or State agencies on the demand for direct loans under this section.

(5) The Secretary's recommendations, if any, for additional legislation regarding the pilot program.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3637; amended Pub. L. 104–275, title II, § 202(a), Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105–114, title II, § 201(b), (c), Nov. 21, 1997, 111 Stat. 2282, 2283; Pub. L. 107–103, title IV, § 402(b), (c), Dec. 27, 2001, 115 Stat. 993.)

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–103, § 402(b), designated existing provisions as subpar. (A), substituted "; or" for "; and", and added subpar. (B).

Subsec. (j). Pub. L. 107–103, § 402(c), substituted "2006" for "2002" in introductory provisions.

1997—Subsec. (i). Pub. L. 105–114, § 201(b), designated existing provisions as par. (1), inserted ", in consultation with tribal organizations (including the National Congress of American Indians and the National American Indian Housing Council)," after "the Secretary shall", struck out "tribal organizations and" after "educate", and added par. (2).

Subsec. (j). Pub. L. 105–114, § 201(c), added subsec. (j).

1996—Subsecs. (h), (i). Pub. L. 104–275 added subsec. (h) and redesignated former subsec. (h) as (i).

§ 3763. Native American Veteran Housing Loan Program Account

(a) There is hereby established in the Treasury of the United States an account known as the "Native American Veteran Housing Loan Program Account" (hereinafter in this subchapter referred to as the "Account").

(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3639; amended Pub. L. 105–368, title VI, § 602(e)(3)(B), Nov. 11, 1998, 112 Stat. 3347; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14 substituted "hereinafter" for "hereafter".

1998—Pub. L. 105–368 substituted "Native American Veteran Housing Loan Program Account" for "Housing loan program account" in section catchline.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105–368, set out as a note under section 2106 of this title.

§ 3764. Definitions

For the purposes of this subchapter—

(1) The term "trust land" means any land that—

(A) is held in trust by the United States for Native Americans;

(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

(2) The term "Native American veteran" means any veteran who is a Native American.

(3) The term "Native American" means—

(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67–34; 42 Stat. 108);

(C) an Alaska Native, within the meaning provided for the term ''Native'' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

(4) The term ''tribal organization'' shall have the meaning given such term in section 4(*l*) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(*l*)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3639.)

REFERENCES IN TEXT

Section 201(a)(7) of the Hawaiian Homes Commission Act, 1920, referred to in par. (3)(B), was classified to section 692 of Title 48, Territories and Insular Possessions, and was omitted from the Code.

The Native American Programs Act of 1974, referred to in par. (3)(D), is title VIII of Pub. L. 88–452, as added by Pub. L. 93–644, § 11, Jan. 4, 1975, 88 Stat. 2324, which is classified generally to subchapter VIII (§ 2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2991 of Title 42 and Tables.

[SUBCHAPTER VI—TRANSFERRED]

CODIFICATION

Former subchapter VI of this chapter, other than section 3771, was transferred to subchapter VI of chapter 20 of this title and inserted after section 2043 of this title, and sections 3772 to 3775 were renumbered sections 2051 to 2054 of this title, respectively, by Pub. L. 107–95, § 5(d)(1), Dec. 21, 2001, 115 Stat. 918.

[§ 3771. Repealed. Pub. L. 107–95, § 5(d)(3), Dec. 21, 2001, 115 Stat. 918]

Section, added Pub. L. 105–368, title VI, § 601(a), Nov. 11, 1998, 112 Stat. 3342; amended Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675, defined terms ''veteran'', ''homeless veteran'', and ''homeless individual'', for purposes of this subchapter.

[§§ 3772 to 3775. Renumbered §§ 2051 to 2054]

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

Sec.
3901. Definitions.
3902. Assistance for providing automobile and adaptive equipment.
3903. Limitations on assistance; special training courses.
3904. Research and development.

CODIFICATION

This chapter as added by Pub. L. 91–666, § 2(a), Jan. 11, 1971, 84 Stat. 1998, constitutes a general revision of the provisions of a prior chapter 39, as enacted by Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1215, and amended thereafter. The analysis in the original consisted of the following provisions:

''Automobiles For Disabled Veterans'' in the chapter heading.

''Veterans eligible for assistance'' in item 1901.

''Limitation on types of assistance furnished and veterans otherwise entitled'' in item 1902.

''Limitation on amounts paid by United States'' in item 1903.

''Prohibition against duplication of benefits'' in item 1904.

''Applications'' in item 1905.

AMENDMENTS

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1901 to 1904 as 3901 to 3904, respectively.

1976—Pub. L. 94–581, title II, § 205(b)(1), Oct. 21, 1976, 90 Stat. 2858, struck out ''; coordination with other Federal programs'' in item 1904.

1974—Pub. L. 93–538, §§ 4(c), 5(b), Dec. 22, 1974, 88 Stat. 1737, inserted ''; special training courses'' in item 1903, and added item 1904.

§ 3901. Definitions

For purposes of this chapter—

(1) The term ''eligible person'' means—

(A) any veteran entitled to compensation under chapter 11 of this title for any of the disabilities described in subclause (i), (ii), or (iii) below, if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service:

(i) The loss or permanent loss of use of one or both feet;

(ii) The loss or permanent loss of use of one or both hands;

(iii) The permanent impairment of vision of both eyes of the following status: central visual acuity of 20/200 or less in the better eye, with corrective glasses, or central visual acuity of more than 20/200 if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees in the better eye; or

(B) any member of the Armed Forces serving on active duty who is suffering from any disability described in subclause (i), (ii), or (iii) of clause (A) of this paragraph if such disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service.

(2) The term ''adaptive equipment'' includes, but is not limited to, power steering, power brakes, power window lifts, power seats, and special equipment necessary to assist the eligible person into and out of the automobile or other conveyance. Such term also includes (A) air-conditioning equipment when such equipment is necessary to the health and safety of the veteran and to the safety of others, regardless of whether the automobile or other conveyance is to be operated by the eligible person or is to be operated for such person by another person; and (B) any modification of the size of the interior space of the automobile or other conveyance if needed because of the physical condition of such person in order for such person to enter or operate the vehicle.

(Added Pub. L. 91–666, § 2(a), Jan. 11, 1971, 84 Stat. 1998, § 1901; amended Pub. L. 93–538, § 2, Dec. 22, 1974, 88 Stat. 1736; Pub. L. 94–433, title III, § 303, Sept. 30, 1976, 90 Stat. 1377; Pub. L. 95–116, § 1(a), Oct. 3, 1977, 91 Stat. 1062; renumbered § 3901, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1901 of this title as this section.

1977—Par. (1). Pub. L. 95–116 struck out ''on or after September 16, 1940'' after ''or air service'' in cls. (A) and (B).

1976—Par. (1). Pub. L. 94–433, § 303(1), (2), substituted ''on or after September 16, 1940'' for ''during World War II or thereafter'' in cls. (A) and (B).

1974—Par. (1)(A). Pub. L. 93–538, § 2(1), substituted ''World War II or thereafter'' for ''World War II, or the Korean conflict; or if the disability is the result of an injury incurred or disease contracted in or aggravated by active military, naval, or air service performed after January 31, 1955, and the injury was incurred or the disease was contracted in line of duty as a direct result of the performance of military duty.''

Par. (1)(B). Pub. L. 93–538, § 2(2), substituted ''World War II or thereafter'' for ''World War II, the Korean conflict, or the Vietnam era; or if such disability is the result of an injury incurred or disease contracted in or aggravated by any other active military, naval, or air service performed after January 31, 1955, and the injury was incurred or the disease was contracted in line of duty as a direct result of the performance of military duty.''

Par. (2). Pub. L. 93–538, § 2(2), substituted definition of ''adaptive equipment'' for definition of ''World War II''.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 1(b) of Pub. L. 95–116 provided that: ''The amendment made by subsection (a) of this section [amending this section] shall become effective October 1, 1977.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 6 of Pub. L. 93–538 provided that: ''The provisions of this Act [enacting section 1904 [now 3904] of this title, amending this section and sections 1902 and 1903 [now 3902 and 3903] of this title, and enacting provisions set out as a note under this section] shall become effective on the first day of the second calendar month following the date of enactment [Dec. 22, 1974], except that clause (3) of section 3 [amending section 1902 [now 3902] of this title] shall take effect on January 11, 1971.''

SHORT TITLE

For short title of Pub. L. 91–666, Jan. 11, 1971, 84 Stat. 1998, which enacted this chapter, as the ''Disabled Veterans' and Servicemen's Automobile Assistance Act of 1970'', see section 1 of Pub. L. 91–666, set out as a Short Title of 1971 Amendment note under section 101 of this title.

§ 3902. Assistance for providing automobile and adaptive equipment

(a) The Secretary, under regulations which the Secretary shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or $11,000, whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

(b)(1) The Secretary, under regulations which the Secretary shall prescribe, shall provide each eligible person the adaptive equipment deemed necessary to insure that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with such person's own safety and the safety of others and so as to satisfy the applicable standards of licensure established by the State of such person's residency or other proper licensing authority.

(2) In the case of any veteran (other that a person eligible for assistance under paragraph (1) of this subsection) who is entitled to compensation for ankylosis of one or both knees, or one or both hips, the Secretary, under the terms and conditions set forth in subsections (a), (c), and (d) of section 3903 of this title and under regulations which the Secretary shall prescribe, shall provide such adaptive equipment to overcome the disability resulting from such ankylosis as (A) is necessary to meet the applicable standards of licensure established by the State of such veteran's residency or other proper licensing authority for the operation of such veteran's automobile or other conveyance by such veteran, and (B) is determined to be necessary by the Under Secretary for Health for the safe operation of such automobile or other conveyance by such veteran.

(c) In accordance with regulations which the Secretary shall prescribe, the Secretary shall (1) repair, replace, or reinstall adaptive equipment deemed necessary for the operation of an automobile or other conveyance acquired in accordance with the provisions of this chapter, and (2) provide, repair, replace, or reinstall such adaptive equipment for any automobile or other conveyance which an eligible person may previously or subsequently have acquired.

(d) If an eligible person cannot qualify to operate an automobile or other conveyance, the Secretary shall provide or assist in providing an automobile or other conveyance to such person, as provided in subsection (a) of this section, if the automobile or other conveyance is to be operated for the eligible person by another person.

(Added Pub. L. 91–666, § 2(a), Jan. 11, 1971, 84 Stat. 1999, § 1902; amended Pub. L. 93–538, § 3, Dec. 22, 1974, 88 Stat. 1736; Pub. L. 95–479, title III, § 304, Oct. 18, 1978, 92 Stat. 1565; Pub. L. 97–66, title III, §§ 301–303, Oct. 17, 1981, 95 Stat. 1030; Pub. L. 98–543, title III, § 305(a), Oct. 24, 1984, 98 Stat. 2748; Pub. L. 100–322, title III, § 302, May 20, 1988, 102 Stat. 534; renumbered § 3902 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 105–178, title VIII, § 8205(a), June 9, 1998, 112 Stat. 494; Pub. L. 107–103, title V, § 503, Dec. 27, 2001, 115 Stat. 995; Pub. L. 108–183, title IV, § 402(b), Dec. 16, 2003, 117 Stat. 2664.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''$11,000'' for ''$9,000''.

2001—Subsec. (a). Pub. L. 107–103 substituted ''$9,000'' for '$8,000''.

1998—Subsec. (a). Pub. L. 105–178 substituted ''$8,000'' for ''$5,500''.

1992—Subsec. (b)(2). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1902 of this title as this section.

Subsecs. (a), (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3903'' for ''1903''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsecs. (c), (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (a). Pub. L. 100–322 substituted ''$5,500'' for ''$5,000''.

1984—Subsec. (a). Pub. L. 98–543 substituted ''$5,000'' for ''$4,400''.

1981—Subsec. (a). Pub. L. 97–66, §§ 301, 303, substituted ''which the Administrator shall prescribe'' for ''which he shall prescribe'' and ''$4,400'' for ''$3,800''.

Subsec. (b). Pub. L. 97–66, §§ 302, 303, designated existing provisions as par. (1), substituted ''which the Administrator shall prescribe'' for ''which he shall prescribe'' and ''such person's'' for ''his'' in two places, and added par. (2).

Subsec. (c). Pub. L. 97–66, § 303, substituted ''which the Administrator shall prescribe'' for ''which he shall prescribe''.

1978—Subsec. (a). Pub. L. 95–479 substituted ''$3,800'' for ''$3,300''.

1974—Subsec. (a). Pub. L. 93–538, § 3(1), (2), substituted ''automobile or other conveyance (including all State, local, and other taxes) or $3,300'' for ''automobile or other conveyance or $2,800''.

Subsec. (c). Pub. L. 93–538, § 3(3), substituted ''person may previously or subsequently have acquired'' for ''person may subsequently have acquired''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 applicable with respect to assistance furnished on or after Dec. 16, 2003, see section 402(c) of Pub. L. 108–183, set out as a note under section 2102 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title VIII, § 8205(b), June 9, 1998, 112 Stat. 494, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to assistance furnished under section 3902 of such title on or after October 1, 1998.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–322 effective Apr. 1, 1988, see section 304 of Pub. L. 100–322, set out as a note under section 2102 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–543 effective Jan. 1, 1985, see section 305(c) of Pub. L. 98–543, set out as a note under section 3903 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 3(1), (2) of Pub. L. 93–538 effective first day of second calendar month following Dec. 22, 1974, and amendment by section 3(3) of Pub. L. 93–538 effective Jan. 11, 1971, see section 6 of Pub. L. 93–538, set out as a note under section 3901 of this title.

§ 3903. Limitations on assistance; special training courses

(a) No eligible person shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter, and no payment shall be made under this chapter for the repair, maintenance, or replacement of an automobile or other conveyance.

(b) Except as provided in subsection (d) of section 3902 of this title, no eligible person shall be provided an automobile or other conveyance under this chapter until it is established to the satisfaction of the Secretary, in accordance with regulations the Secretary shall prescribe, that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with such person's own safety and the safety of others and will satisfy the applicable standards of licensure to operate the automobile or other conveyance established by the State of such person's residency or other proper licensing authority.

(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period.

(2) In a case in which the four-year limitation in paragraph (1) of this subsection precludes an eligible person from being entitled to adaptive equipment under this chapter, if the Secretary determines that, due to circumstances beyond the control of such person, one of the automobiles or other conveyances for which adaptive equipment was provided to such person during the applicable four-year period is no longer available for the use of such person, the Secretary may provide adaptive equipment to such person for an additional automobile or other conveyance during such period. Provision of adaptive equipment under this paragraph is within the discretion of the Secretary. Any action to provide adaptive equipment under this paragraph shall be made pursuant to regulations which the Secretary shall prescribe.

(d) Adaptive equipment shall not be provided under this chapter unless it conforms to minimum standards of safety and quality prescribed by the Secretary.

(e)(1) The Secretary shall provide, directly or by contract, for the conduct of special driver training courses at every hospital and, where appropriate, at regional offices and other medical facilities, of the Department to instruct such eligible person to operate the type of automobile or other conveyance such person wishes to obtain with assistance under this chapter, and may make such courses available to any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is determined by the Secretary to need the special training provided in such courses even though such veteran or member is not eligible for the assistance provided under this chapter.

(2) The Secretary is authorized to obtain insurance on automobiles and other conveyances used in conducting the special driver training courses provided under this subsection and to obtain, at Government expense, personal liability and property damage insurance for all persons taking such courses without regard to whether such persons are taking the course on an in-patient or out-patient basis.

(3) Notwithstanding any other provision of law, the Secretary may obtain, by purchase,

lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Department obtains title for such price and upon such terms as the Secretary deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Department appropriation.

(Added Pub. L. 91–666, § 2(a), Jan. 11, 1971, 84 Stat. 2000, § 1903; amended Pub. L. 93–538, § 4(a), (b), Dec. 22, 1974, 88 Stat. 1736, 1737; Pub. L. 94–581, title I, § 108, Oct. 21, 1976, 90 Stat. 2847; Pub. L. 97–66, title III, § 303, Oct. 17, 1981, 95 Stat. 1030; Pub. L. 98–543, title III, § 305(b), Oct. 24, 1984, 98 Stat. 2748; renumbered § 3903 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–117, title VIII, § 804, Nov. 30, 1999, 113 Stat. 1586.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 1902 and 1904 of this title prior to the general revision of this chapter by Pub. L. 91–666.

AMENDMENTS

1999—Subsec. (e)(2). Pub. L. 106–117 struck out ''(not owned by the Government)'' after ''automobiles and other conveyances''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1903 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3902'' for ''1902''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsecs. (c)(2), (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (e)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (e)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

1984—Subsec. (c). Pub. L. 98–543 designated existing provisions as par. (1), substituted ''two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period'' for ''one automobile or other conveyance at any one time'', and added par. (2).

1981—Subsec. (b). Pub. L. 97–66 substituted ''the Administrator shall prescribe'' for ''he shall prescribe'' and ''such person's'' for ''his'' in two places.

1976—Subsec. (e)(1). Pub. L. 94–581, § 108(1), substituted ''any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is determined'' for ''any veteran or member of the Armed Forces, eligible for care under chapter 17 of this title, who is determined''.

Subsec. (e)(3). Pub. L. 94–581, § 108(2), added par. (3).

1974—Pub. L. 93–538, § 4(b), substituted ''Limitations on assistance; special training courses'' for ''Limitations on assistance'' in section catchline.

Subsec. (e). Pub. L. 93–538, § 4(a), added subsec. (e).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 305(c) of Pub. L. 98–543 provided that:

''(1) The amendments made by this section [amending this section and section 1902 [now 3902] of this title] shall take effect on January 1, 1985.

''(2) In the case of a person who during the four-year period ending on December 31, 1984, was provided adaptive equipment under chapter 39 of title 38, United States Code, for an automobile or other conveyance and who has such automobile or other conveyance available for use on the date of the enactment of this Act [Oct. 24, 1984], the first four-year period applicable to such person under subsection (c) of section 1903 [now 3903] of such title (as amended by subsection (a)) shall begin on the most recent date before January 1, 1985, on which such person was provided such equipment.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–538 effective first day of second calendar month following Dec. 22, 1974, see section 6 of Pub. L. 93–538, set out as a note under section 3901 of this title.

§ 3904. Research and development

(a) In carrying out medical and prosthetic research under section 7303 of this title, the Secretary, through the Under Secretary for Health, shall provide for special emphasis on the research and development of adaptive equipment and adapted conveyances (including vans) meeting standards of safety and quality prescribed under subsection (d) of section 3903, including support for the production and distribution of devices and conveyances so developed.

(b) In carrying out subsection (a) of this section, the Secretary, through the Under Secretary for Health, shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers).

(Added Pub. L. 93–538, § 5(a), Dec. 22, 1974, 88 Stat. 1737, § 1904; amended Pub. L. 94–581, title II, § 205(b)(2), (3), Oct. 21, 1976, 90 Stat. 2859; Pub. L. 95–602, title I, § 122(f), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 97–295, § 4(69), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 102–40, title IV, § 403(b)(1), May 7, 1991, 105 Stat. 239; renumbered § 3904 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 105–220, title IV, § 414(c), Aug. 7, 1998, 112 Stat. 1242.)

REFERENCES IN TEXT

Section 204(b)(3) of the Rehabilitation Act of 1973, referred to in subsec. (b), is classified to section 764(b)(3) of Title 29, Labor.

PRIOR PROVISIONS

Prior sections 4001 to 4005 were renumbered sections 7101 to 7105 of this title, respectively.

Another prior section 4005, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1241, related to applications for review on appeal, prior to repeal by Pub. L. 87–666.

Prior section 4006 was renumbered section 7106 of this title.

Another prior section 4006 was renumbered section 4007 of this title.

Prior section 4007 was renumbered section 7107 of this title.

Another prior section 4007, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1242, related to simultaneously contested claims, prior to repeal by Pub. L. 87–666. See section 7105A of this title.

Prior sections 4008 to 4010, 4051 to 4056, 4061 to 4069, 4081 to 4085, 4091, 4092, and 4096 to 4098 were renumbered sections 7108 to 7110, 7251 to 7256, 7261 to 7269, 7281 to 7285, 7291, 7292, and 7296 to 7298 of this title, respectively.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–220 substituted ''section 204(b)(3) of the Rehabilitation Act of 1973'' for ''section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))''.

1992—Subsecs. (a), (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–83, § 5(a), renumbered section 1904 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3903'' for ''1903''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''section 7303'' for ''section 4101''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''through''.

1982—Subsec. (b). Pub. L. 97–295 substituted ''Health and Human Services and the Secretary of Education'' for ''Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare'', and ''section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))'' for ''section 3(b) of the Rehabilitation Act of 1973 (Public Law 93–112; 87 Stat. 357) (relating to the development and support, and the stimulation of the development and utilization, including production and distribution of new and existing devices, of innovative methods of applying advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems), and section 204(b)(2) of such Act''.

1978—Subsec. (b). Pub. L. 95–602 substituted ''and section 204(b)(2) of such Act'' for ''section 202(b)(2) of such Act'' and struck out '', and section 405 of such Act (relating to the Secretarial responsibilities for planning, analysis, promoting utilization of scientific advances, and information clearinghouse activities)'' after ''Research Centers)''.

1976—Pub. L. 94–581, § 205(b)(2), struck out ''; coordination with other Federal programs'' in section catchline.

Subsec. (a). Pub. L. 94–581, § 205(b)(3), substituted ''medical and prosthetic research'' for ''prosthetic and orthopedic appliance research under section 216 and medical research''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE

Section effective first day of second calendar month following Dec. 22, 1974, see section 6 of Pub. L. 93–538, set out as an Effective Date of 1974 Amendment note under section 3901 of this title.

CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.
4100. Findings.
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4110A. Special unemployment study.
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AMENDMENTS

2003—Pub. L. 108–183, title III, § 309(a)(2), Dec. 16, 2003, 117 Stat. 2663, added item 4113.

2002—Pub. L. 107–288, §§ 3(b), 4(a)(2), (3)(A)(ii), Nov. 7, 2002, 116 Stat. 2038, 2042, substituted ''Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators'' for ''Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators'' in item 4102A and ''Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel'' for ''Directors and Assistant Directors for Veterans' Employment and Training'' in item 4103, struck out item 4104A ''Performance of disabled veterans' outreach program specialists and local veterans' employment representatives'', and added item 4112.

2001—Pub. L. 107–95, § 5(g)(3), Dec. 21, 2001, 115 Stat. 919, struck out item 4111 ''Homeless veterans' reintegration programs''.

2000—Pub. L. 106–419, title IV, § 404(a)(8), Nov. 1, 2000, 114 Stat. 1865, added item 4110B.

1999—Pub. L. 106–117, title IX, § 901(b), Nov. 30, 1999, 113 Stat. 1587, added item 4111.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 2000 to 2010A as 4100 to 4110A, respectively.

Pub. L. 102–16, § 8(b), Mar. 22, 1991, 105 Stat. 53, substituted ''Advisory Committee on Veterans Employment and Training'' for ''Secretary of Labor's Committee on Veterans' Employment'' in item 2010.

1988—Pub. L. 100–323, §§ 2(e)(3)(B), 3(c), 4(b), 6(b)(2)(B), 8(b), 9(b), 15(c)(3)(B), May 20, 1988, 102 Stat. 559, 562–564, 566, 574, inserted ''and Training; Regional Administrators'' after ''for Veterans' Employment'' in item 2002A, substituted ''Directors and Assistant Directors for Veterans' Employment and Training'' for ''State and Assistant State Directors for Veterans' Employment'' in item 2003, substituted ''Local veterans' employment representatives'' for ''Employees of local offices'' in item 2004, added item 2004A, struck out ''with the Veterans' Administration'' after ''Cooperation and coordination'' in item 2008, substituted ''National Veterans' Employment and Training Services Institute'' for ''National veterans' employment and training programs'' in item 2009, and added item 2010A.

1982—Pub. L. 97–306, title III, §§ 301(b)(1), 304(a)(2), 308(b), Oct. 14, 1982, 96 Stat. 1437, 1438, 1441, added item 2000, substituted ''State and Assistant State Directors for Veterans' Employment'' for ''Assignment of veterans' employment representative'' in item 2003 and added items 2009 and 2010.

1980—Pub. L. 96–466, title V, §§504(a)(1), 506(b), Oct. 17, 1980, 94 Stat. 2203, 2205, struck out ''Deputy'' before ''Assistant Secretary'' in item 2002A and added item 2003A.

1976—Pub. L. 94–502, title VI, §601(b)(2), Oct. 15, 1976, 90 Stat. 2404, added item 2002A.

1972—Pub. L. 92–540, title V, §502(a), Oct. 24, 1972, 86 Stat. 1094, in chapter heading substituted '', TRAINING AND'' for ''AND EMPLOYMENT'', redesignated former items 2001 to 2005 as items 2002 to 2006, and added items 2001, 2007, and 2008, and in redesignated item 2006 ''authorization of appropriations''.

1966—Pub. L. 89–358, §6(a), Mar. 3, 1966, 80 Stat. 27, substituted ''JOB COUNSELING AND EMPLOYMENT PLACEMENT SERVICE FOR VETERANS'' for ''UNEMPLOYMENT BENEFITS FOR VETERANS'' in chapter heading.

1962—Pub. L. 87–675, §1(b), (d), Sept. 19, 1962, 76 Stat. 558, 559, substituted ''Purpose'' for ''Compensation for veterans under State agreements'' in item 2001, ''Assignment of veterans' employment representative'' for ''Unemployment compensation in absence of State agreements'' in item 2002, ''Employees of local offices'' for ''Payments to States'' in item 2003, ''Cooperation of Federal agencies'' for ''Information'' in item 2004, and ''Estimate of funds for administration'' for ''Penalties'' in item 2005, and struck out items 2006 to 2014 and headings of subchapters I and II.

§ 4100. Findings

The Congress makes the following findings:

(1) As long as unemployment and underemployment continue as serious problems among disabled veterans and Vietnam-era veterans, alleviating unemployment and underemployment among such veterans is a national responsibility.

(2) Because of the special nature of employment and training needs of such veterans and the national responsibility to meet those needs, policies and programs to increase opportunities for such veterans to obtain employment, job training, counseling, and job placement services and assistance in securing advancement in employment should be effectively and vigorously implemented by the Secretary of Labor and such implementation should be accomplished through the Assistant Secretary of Labor for Veterans' Employment and Training.

(Added Pub. L. 97–306, title III, §301(a), Oct. 14, 1982, 96 Stat. 1436, §2000; amended Pub. L. 100–323, §15(b)(1), May 20, 1988, 102 Stat. 574; renumbered §4100, Pub. L. 102–83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 2000 of this title as this section.

1988—Par. (2). Pub. L. 100–323, §15(b)(1), inserted ''and Training'' after ''for Veterans' Employment''.

COMMITTEE TO RAISE EMPLOYER AWARENESS OF SKILLS OF VETERANS AND BENEFITS OF HIRING VETERANS

Pub. L. 107–288, §6, Nov. 7, 2002, 116 Stat. 2046, provided that:

''(a) ESTABLISHMENT OF COMMITTEE.—There is established within the Department of Labor a committee to be known as the President's National Hire Veterans Committee (hereinafter in this section referred to as the 'Committee').

''(b) DUTIES.—The Committee shall establish and carry out a national program to do the following:

''(1) To furnish information to employers with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills.

''(2) To facilitate employment of veterans and disabled veterans through participation in America's Career Kit national labor exchange, and other means.

''(c) MEMBERSHIP.—(1) The Secretary of Labor shall appoint 15 individuals to serve as members of the Committee, of whom one shall be appointed from among representatives nominated by each organization described in subparagraph (A) and of whom eight shall be appointed from among representatives nominated by organizations described in subparagraph (B).

''(A) Organizations described in this subparagraph are the following:

''(i) The Ad Council.

''(ii) The National Committee for Employer Support of the Guard and Reserve.

''(iii) Veterans' service organizations that have a national employment program.

''(iv) State employment security agencies.

''(v) One-stop career centers.

''(vi) State departments of veterans affairs.

''(vii) Military service organizations.

''(B) Organizations described in this subparagraph are such businesses, small businesses, industries, companies in the private sector that furnish placement services, civic groups, workforce investment boards, and labor unions as the Secretary of Labor determines appropriate.

''(2) The following shall be ex officio, nonvoting members of the Committee:

''(A) The Secretary of Veterans Affairs.

''(B) The Secretary of Defense.

''(C) The Assistant Secretary of Labor for Veterans' Employment and Training.

''(D) The Administrator of the Small Business Administration.

''(E) The Postmaster General.

''(F) The Director of the Office of Personnel Management.

''(3) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

''(d) ADMINISTRATIVE MATTERS.—(1) The Committee shall meet not less frequently than once each calendar quarter.

''(2) The Secretary of Labor shall appoint the chairman of the Committee.

''(3)(A) Members of the Committee shall serve without compensation.

''(B) Members of the Committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 [United States Code] while away from their homes or regular places of business in the performance of the responsibilities of the Committee.

''(4) The Secretary of Labor shall provide staff and administrative support to the Committee to assist it in carrying out its duties under this section. The Secretary shall assure positions on the staff of the Committee include positions that are filled by individuals that are now, or have ever been, employed as one of the following:

''(A) Staff of the Assistant Secretary of Labor for Veterans' Employment and Training under section 4102A of title 38, United States Code as in effect on the date of the enactment of this Act [Nov. 7, 2002].

''(B) Directors for Veterans' Employment and Training under section 4103 of such title as in effect on such date.

''(C) Assistant Director for Veterans' Employment and Training under such section as in effect on such date.

''(D) Disabled veterans' outreach program specialists under section 4103A of such title as in effect on such date.

''(E) Local veterans' employment representatives under section 4104 of such title as in effect on such date.

''(5) Upon request of the Committee, the head of any Federal department or agency may detail, on a nonreimbursable basis, any of the personnel of that department or agency to the Committee to assist it in carrying out its duties.

''(6) The Committee may contract with and compensate government and private agencies or persons to furnish information to employers under subsection (b)(1) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

''(e) REPORT.—Not later than December 31, 2003, 2004, and 2005, the Secretary of Labor shall submit to Congress a report on the activities of the Committee under this section during the previous fiscal year, and shall include in such report data with respect to placement and retention of veterans in jobs attributable to the activities of the Committee.

''(f) TERMINATION.—The Committee shall terminate 60 days after submitting the report that is due on December 31, 2005.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Labor from the employment security administration account (established in section 901 of the Social Security Act (42 U.S.C. 1101)) in the Unemployment Trust Fund $3,000,000 for each of fiscal years 2003 through 2005 to carry out this section.''

REPORT ON IMPLEMENTATION OF EMPLOYMENT REFORMS

Pub. L. 107–288, § 7, Nov. 7, 2002, 116 Stat. 2048, provided that:

''(a) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation by the Secretary of Labor of the provisions of this Act [see Short Title of 2002 Amendments note set out under section 101 of this title] during the program years that begin during fiscal years 2003 and 2004. The study shall include an assessment of the modifications under sections 2 through 5 of this Act of the provisions of title 38, United States Code, and an evaluation of the impact of those modifications, and of the actions of the President's National Hire Veterans Committee under section 6 of this Act [set out as a note above], to the provision of employment, training, and placement services provided to veterans under that title.

''(b) REPORT.—Not later than 6 months after the conclusion of the program year that begins during fiscal year 2004, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include such recommendations as the Comptroller General determines appropriate, including recommendations for legislation or administrative action.''

PILOT PROGRAM TO FURNISH EMPLOYMENT AND TRAINING INFORMATION AND SERVICES TO MEMBERS OF ARMED FORCES SEPARATING FROM ARMED FORCES

Pub. L. 101–237, title IV, § 408, Dec. 18, 1989, 103 Stat. 2083, as amended by Pub. L. 104–66, title I, § 1101, Dec. 21, 1995, 109 Stat. 722, provided that:

''(a) REQUIREMENT FOR PROGRAM.—During the three-year period beginning on January 1, 1990, the Secretary of Labor (hereafter in this section referred to as the 'Secretary'), in conjunction with the Secretary of Veterans Affairs and the Secretary of Defense, shall conduct a pilot program to furnish employment and training information and services to members of the Armed Forces within 180 days before such members are separated from the Armed Forces.

''(b) AREAS TO BE COVERED BY THE PROGRAM.—The Secretary shall conduct the pilot program in at least five, but not more than ten, geographically dispersed States in which the Secretary determines that employment and training services to eligible veterans will not be unduly limited by the provision of such services to members of the Armed Forces under the pilot program.

''(c) UTILIZATION OF SPECIFIC PERSONNEL.—The Secretary shall utilize disabled veterans' outreach program specialists or local veterans' employment representatives to the maximum extent feasible to furnish employment and training information and services under the pilot program.''

§ 4101. Definitions

For the purposes of this chapter—

(1) The term ''special disabled veteran'' has the same meaning provided in section 4211(1) of this title.

(2) The term ''veteran of the Vietnam era'' has the same meaning provided in section 4211(2) of this title.

(3) The term ''disabled veteran'' has the same meaning provided in section 4211(3) of this title.

(4) The term ''eligible veteran'' has the same meaning provided in section 4211(4) of this title.

(5) The term ''eligible person'' means—

(A) the spouse of any person who died of a service-connected disability,

(B) the spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (i) missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power, or

(C) the spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

(6) The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and may include, to the extent determined necessary and feasible, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, and the Trust Territory of the Pacific Islands.

(7) The term ''employment service delivery system'' means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.

(8) The term ''Secretary'' means the Secretary of Labor.

(9) The term ''intensive services'' means local employment and training services of the type described in section 134(d)(3) of the Workforce Investment Act of 1998.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1221, § 2010; renumbered § 2001, Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558; amended Pub. L. 89–358, § 6(c)(1), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93–508, title IV, § 401(a), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 96–466, title V, § 503, title VIII, § 801(h), Oct. 17, 1980, 94 Stat. 2203, 2216; Pub. L. 100–323, §§ 3(b), 15(a)(1), May 20, 1988, 102 Stat. 562, 574; renumbered § 4101 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–288, § 5(a)(1)(A), (c)(1), Nov. 7, 2002, 116 Stat. 2044, 2045.)

REFERENCES IN TEXT

The Wagner-Peyser Act, referred to in par. (7), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§ 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

Section 134(d)(3) of the Workforce Investment Act of 1998, referred to in par. (9), is classified to section 2864(d)(3) of Title 29, Labor.

PRIOR PROVISIONS

Prior section 4101, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1243; Pub. L. 89–785, title I, § 101, Nov. 7, 1966, 80 Stat. 1368; Pub. L. 93–82, title II, § 201, Aug. 2, 1973, 87 Stat. 187; Pub. L. 94–581, title II, §§ 205(a), 209(a)(1), (3), 210(c)(1), Oct. 21, 1976, 90 Stat. 2857, 2860, 2863; Pub. L. 96–330, title I, § 105(a), title III, § 302, title IV, § 408, Aug. 26, 1980, 94 Stat. 1036, 1048, 1053; Pub. L. 97–295, § 4(80), Oct. 12, 1982, 96 Stat. 1311; Pub. L. 98–528, title I, § 104, Oct. 19, 1984, 98 Stat. 2689; Pub. L. 99–166, title II, § 202, Dec. 3, 1985, 99 Stat. 950; Pub. L. 100–322, title I, § 135, May 20, 1988, 102 Stat. 507; Pub. L. 100–687, div. B, title XV, § 1506(a), Nov. 18, 1988, 102 Stat. 4135, related to functions of Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See sections 7301 to 7303, 7314, 7315, 7317, and 7425 of this title.

AMENDMENTS

2002—Par. (7). Pub. L. 107–288, § 5(c)(1), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''The term 'local employment service office' means a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.''

Par. (9). Pub. L. 107–288, § 5(a)(1)(A), added par. (9).

1991—Pub. L. 102–83, § 5(a), renumbered section 2001 of this title as this section.

Pars. (1) to (4). Pub. L. 102–83, § 5(c)(1), substituted ''4211(1)'' for ''2011(1)'' in par. (1), ''4211(2)'' for ''2011(2)'' in par. (2), ''4211(3)'' for ''2011(3)'' in par. (3), and ''4211(4)'' for ''2011(4)'' in par. (4).

1988—Pars. (7), (8). Pub. L. 100–323 added pars. (7) and (8).

1980—Par. (1). Pub. L. 96–466, § 503(1), substituted provisions defining ''special disabled veteran'' for provisions that term ''eligible veteran'' meant a person who served in the active military, naval, or air service and who was discharged or released therefrom with other than a dishonorable discharge.

Pars. (2) to (4). Pub. L. 96–466, § 503(2), added pars. (2) to (4). Former pars. (2) and (3) redesignated (5) and (6), respectively.

Par. (5). Pub. L. 96–466, §§ 503(2), 801(h)(1), redesignated former par. (2) as (5) and substituted ''The term'' for ''the term''.

Par. (6). Pub. L. 96–466, §§ 503(2), 801(h)(2), redesignated former par. (3) as (6) and inserted ''the Commonwealth of the Northern Marianas Islands,'' after ''the Virgin Islands,''.

1974—Pars. (2), (3). Pub. L. 93–508 added par. (2) and redesignated former par. (2) as (3).

1972—Pub. L. 92–540 substituted provisions defining ''eligible veteran'' and ''State'', for provisions stating the Congressional declaration of purpose.

1966—Pub. L. 89–358 inserted ''or of service after January 31, 1955'' after ''veterans of any war''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 5(a)(2), Nov. 7, 2002, 116 Stat. 2044, provided that: ''The amendments made by paragraph (1) [amending this section and sections 4102, 4106, 4107, and 4109 of this title] shall take effect on the date of the enactment of this Act [Nov. 7, 2002].''

Pub. L. 107–288, § 5(c)(2), Nov. 7, 2002, 116 Stat. 2045, provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 7, 2002].''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 802(e) of Pub. L. 96–466 provided that: ''The amendments made by title V [see Tables for classification] and the provisions of sections 512 and 513 [set out as notes under sections 4106 and 4107 of this title] shall become effective on October 1, 1980.''

Amendment by section 801(h) of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 601(b) of Pub. L. 92–540 provided that: ''The provisions of title V of this Act [see Tables for classification] shall become effective 90 days after the date of enactment of this Act [Oct. 24, 1972].''

SAVINGS PROVISION

Section 1(e) of Pub. L. 87–675 provided that: ''Claims for benefits under [former] sections 2001 through 2009 of chapter 41 of title 38, United States Code, for any benefit week beginning before January 31, 1960, which claims are pending on the date these sections are repealed [Sept. 19, 1962], shall be adjudicated in the same manner and with the same effect as if the sections had not been repealed. For the purpose of administering the program with respect to such claims, all functions, powers, and duties conferred upon the Secretary of Labor by sections 2001 through 2009 are continued in effect, and all rules and regulations established by the Secretary of Labor pursuant to these sections, and in effect when the sections are repealed, shall remain in full force and effect until modified or suspended.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

EMPLOYMENT ASSISTANCE AND SERVICES FOR VETERANS INELIGIBLE FOR ASSISTANCE

Pub. L. 96–466, title V, § 512, Oct. 17, 1980, 94 Stat. 2207, as amended by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(28), (f)(20)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–424, 2681–432, provided that: ''The Secretary of Labor shall assure that any veteran who is made ineligible for employment assistance under chapter 41 of title 38, United States Code, by virtue of the amendments made by section 503(1) of this Act [amending this section] shall be provided with the employment assistance and services made available under the provisions of the Act entitled 'An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes', approved June 6, 1933 (commonly referred to as the 'Wagner-Peyser Act'), (29 U.S.C. 49–49k), title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.], and other applicable provisions of law.''

§ 4102. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training intensive services program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies and regulations shall be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment and Training, established by section 4102A of this

title, through a Veterans' Employment and Training Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized through existing programs, coordination and merger of programs and implementation of new programs, including programs carried out by the Veterans' Employment and Training Service to implement all efforts to ease the transition of servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1217, § 2011; renumbered § 2002, Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558; amended Pub. L. 89–358, § 6(c), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93–508, title IV, § 401(b), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, § 601(a), Oct. 15, 1976, 90 Stat. 2404; Pub. L. 96–466, title V, § 504(a)(2), Oct. 17, 1980, 94 Stat. 2203; Pub. L. 97–306, title III, § 302, Oct. 14, 1982, 96 Stat. 1437; Pub. L. 98–160, title VII, § 702(15), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 100–323, § 15(b)(1), (d), May 20, 1988, 102 Stat. 574; renumbered § 4102 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–288, § 5(a)(1)(B), (b)(1), Nov. 7, 2002, 116 Stat. 2044, 2045.).)

PRIOR PROVISIONS

Prior section 4102, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1243; Pub. L. 89–785, title I, § 102, Nov. 7, 1966, 80 Stat. 1368; Pub. L. 94–581, title I, § 110(1), Oct. 21, 1976, 90 Stat. 2848, related to divisions of Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7305 of this title.

Provisions similar to those comprising this section were contained in former section 2001 of this title prior to the amendment of this chapter by Pub. L. 92–540.

AMENDMENTS

2002—Pub. L. 107–288, § 5(a)(1)(B), substituted ''job and job training intensive services program,'' for ''job and job training counseling service program,''.

Pub. L. 107–288, § 5(b)(1), substituted ''and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized'' for ''and veterans of the Vietnam era'' and inserted before period '', including programs carried out by the Veterans' Employment and Training Service to implement all efforts to ease the transition of servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers''.

1991—Pub. L. 102–83 renumbered section 2002 of this title as this section and substituted ''4102A'' for ''2002A''.

1988—Pub. L. 100–323 inserted ''and Training'' after ''for Veterans' Employment'' and substituted ''Veterans' Employment and Training Service'' for ''Veterans Employment Service''.

1983—Pub. L. 98–160 substituted ''an Assistant'' for ''a Assistant''.

1982—Pub. L. 97–306 inserted ''and regulations'' after ''to this end policies'', and inserted '', with priority given to the needs of disabled veterans and veterans of the Vietnam era'' after ''opportunities''.

1980—Pub. L. 96–466 struck out ''Deputy'' before ''Assistant Secretary''.

1976—Pub. L. 94–502 inserted ''by a Deputy Assistant Secretary of Labor for Veteran's Employment, established by section 2002A of this title,'' after ''promulgated and administered''.

1974—Pub. L. 93–508 substituted ''eligible veterans and eligible persons'' for ''eligible veterans'' and ''to provide such veterans and persons'' for ''to provide such veterans''.

1972—Pub. L. 92–540 substituted provisions stating the Congressional declaration of purpose, for provisions relating to the assignment of veterans' employment representatives. See section 2003 of this title.

1966—Pub. L. 89–358 inserted ''or of service after January 31, 1955'' after ''veterans of any war'' in cls. (3) and (5); ''or of service after January 31, 1955'' after ''veteran of any war'' in first sentence; and ''or of service after January 31, 1955,'' after ''veterans of any war'' in cls. (1) and (4), wherever appearing, respectively.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 5(b)(2), Nov. 7, 2002, 116 Stat. 2045, provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 7, 2002].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as a note under section 4101 of this title.

VETERAN'S EMPLOYMENT PROVISIONS

Pub. L. 93–567, title I, § 104, Dec. 31, 1974, 88 Stat. 1848, as amended by Pub. L. 94–444, § 12(a), Oct. 1, 1976, 90 Stat. 1483; Pub. L. 94–502, title VI, § 601(c), Oct. 15, 1976, 90 Stat. 2404, which authorized Secretary of Labor to provide for an outreach and public information program for veterans utilizing, to maximum extent, the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration, was repealed by Pub. L. 95–524, § 7, Oct. 27, 1978, 92 Stat. 2021.

§ 4102A. Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators

(a) ESTABLISHMENT OF POSITION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment and Training, appointed by the President by and with the advice and consent of the Senate, who shall formulate and implement all departmental policies and procedures to carry out (A) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (B) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

(2) The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to

the Assistant Secretary of Labor for Veterans' Employment and Training.

(3)(A) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes.

(B) No individual may be appointed as a Deputy Assistant Secretary of Labor for Veterans' Employment and Training unless the individual has at least five years of service in a management position as an employee of the Federal civil service or comparable service in a management position in the Armed Forces. For purposes of determining such service of an individual, there shall be excluded any service described in subparagraphs (A), (B), and (C) of section 308(d)(2) of this title.

(b) PROGRAM FUNCTIONS.—The Secretary shall carry out the following functions:

(1) Except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of all veterans and persons eligible for services furnished under this chapter.

(2) In order to make maximum use of available resources in meeting such needs, encourage all such programs, and all grantees and contractors under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns owned by veterans or disabled veterans), educational institutions, trade associations, and labor unions.

(3) Ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Secretary of Veterans Affairs with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 1712A of this title, apprenticeship or other on-the-job training programs carried out under section 3687 of this title, and rehabilitation and training activities carried out under chapter 31 of this title and (B) determinations covering veteran population in a State.

(4) Ensure that employment, training, and placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

(5) Subject to subsection (c), make available for use in each State by grant or contract such funds as may be necessary to support—

(A) disabled veterans' outreach program specialists appointed under section 4103A(a)(1) of this title,

(B) local veterans' employment representatives assigned under section 4104(b) of this title, and

(C) the reasonable expenses of such specialists and representatives described in subparagraphs (A) and (B), respectively, for training, travel, supplies, and other business expenses, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Services Institute established under section 4109 of this title.

(6) Monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5).

(7) Establish, and update as appropriate, a comprehensive performance accountability system (as described in subsection (f)) and carry out annual performance reviews of veterans employment, training, and placement services provided through employment service delivery systems, including through disabled veterans' outreach program specialists and through local veterans' employment representatives in States receiving grants, contracts, or awards under this chapter.

(c) CONDITIONS FOR RECEIPT OF FUNDS.—(1) The distribution and use of funds under subsection (b)(5) in order to carry out sections 4103A(a) and 4104(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 4103A or 4104 of this title.

(2)(A) A State shall submit to the Secretary an application for a grant or contract under subsection (b)(5). The application shall contain the following information:

(i) A plan that describes the manner in which the State shall furnish employment, training, and placement services required under this chapter for the program year, including a description of—

(I) duties assigned by the State to disabled veterans' outreach program specialists and local veterans' employment representatives consistent with the requirements of sections 4103A and 4104 of this title;

(II) the manner in which such specialists and representatives are integrated in the employment service delivery systems in the State; and

(III) the program of performance incentive awards described in section 4112 of this title in the State for the program year.

(ii) The veteran population to be served.

(iii) Such additional information as the Secretary may require to make a determination with respect to awarding a grant or contract to the State.

(B)(i) Subject to the succeeding provisions of this subparagraph, of the amount available under subsection (b)(5) for a fiscal year, the Secretary shall make available to each State with an application approved by the Secretary an amount of funding in proportion to the number of veterans seeking employment using such criteria as the Secretary may establish in regulation, including civilian labor force and unemployment data, for the State on an annual basis. The proportion of funding shall reflect the ratio of—

(I) the total number of veterans residing in the State that are seeking employment; to

(II) the total number of veterans seeking employment in all States.

(ii) The Secretary shall phase in over the three fiscal-year period that begins on October 1, 2003, the manner in which amounts are made available to States under subsection (b)(5) and this subsection, as amended by the Jobs for Veterans Act.

(iii) In carrying out this paragraph, the Secretary may establish minimum funding levels and hold-harmless criteria for States.

(3)(A)(i) As a condition of a grant or contract under this section for a program year, in the case of a State that the Secretary determines has an entered-employment rate for veterans that is deficient for the preceding program year, the State shall develop a corrective action plan to improve that rate for veterans in the State.

(ii) The State shall submit the corrective action plan to the Secretary for approval, and if approved, shall expeditiously implement the plan.

(iii) If the Secretary does not approve a corrective action plan submitted by the State under clause (i), the Secretary shall take such steps as may be necessary to implement corrective actions in the State to improve the entered-employment rate for veterans in that State.

(B) To carry out subparagraph (A), the Secretary shall establish in regulations a uniform national threshold entered-employment rate for veterans for a program year by which determinations of deficiency may be made under subparagraph (A).

(C) In making a determination with respect to a deficiency under subparagraph (A), the Secretary shall take into account the applicable annual unemployment data for the State and consider other factors, such as prevailing economic conditions, that affect performance of individuals providing employment, training, and placement services in the State.

(4) In determining the terms and conditions of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall take into account—

(A) the results of reviews, carried out pursuant to subsection (b)(7), of the performance of the employment, training, and placement service delivery system in the State, and

(B) the monitoring carried out under this section.

(5) Each grant or contract by which funds are made available to a State shall contain a provision requiring the recipient of the funds—

(A) to comply with the provisions of this chapter; and

(B) on an annual basis, to notify the Secretary of, and provide supporting rationale for, each nonveteran who is employed as a disabled veterans' outreach program specialist and local veterans' employment representative for a period in excess of 6 months.

(6) Each State shall coordinate employment, training, and placement services furnished to veterans and eligible persons under this chapter with such services furnished with respect to such veterans and persons under the Workforce Investment Act of 1998 and the Wagner-Peyser Act.

(7) With respect to program years beginning during or after fiscal year 2004, one percent of the amount of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for the program year shall be for the purposes of making cash awards under the program of performance incentive awards described in section 4112 of this title in the State.

(d) PARTICIPATION IN OTHER FEDERALLY FUNDED JOB TRAINING PROGRAMS.—The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under title I of the Workforce Investment Act of 1998 and other federally funded employment and training programs.

(e) REGIONAL ADMINISTRATORS.—(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

(2) Each such Regional Administrator shall carry out such duties as the Secretary may require to promote veterans employment and reemployment within the region that the Administrator serves.

(f) ESTABLISHMENT OF PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—(1) By not later than May 7, 2003, the Assistant Secretary of Labor for Veterans' Employment and Training shall establish and implement a comprehensive performance accountability system to measure the performance of employment service delivery systems, including disabled veterans' outreach program specialists and local veterans' employment representatives providing employment, training, and placement services under this chapter in a State to provide accountability of that State to the Secretary for purposes of subsection (c).

(2) Such standards and measures shall—

(A) be consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998; and

(B) be appropriately weighted to provide special consideration for placement of (i) veterans requiring intensive services (as defined in section 4101(9) of this title), such as special disabled veterans and disabled veterans, and (ii) veterans who enroll in readjustment counseling under section 1712A of this title.

(g) AUTHORITY TO PROVIDE TECHNICAL ASSISTANCE TO STATES.—The Secretary may provide such technical assistance as the Secretary determines appropriate to any State that the Secretary determines has, or may have, an entered-employment rate in the State that is deficient, as determined under subsection (c)(3) with respect to a program year, including assistance in the development of a corrective action plan under that subsection.

(Added Pub. L. 94–502, title VI, § 601(b)(1), Oct. 15, 1976, 90 Stat. 2404, § 2002A; amended Pub. L. 96–466, title V, § 504(a)(3), (4), Oct. 17, 1980, 94 Stat. 2203; Pub. L. 97–306, title III, § 303, Oct. 14, 1982, 96 Stat. 1437; Pub. L. 98–160, title VII,

§ 702(15), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 100–323, §§ 2(a), (e)(3)(A), 15(a)(2), (b)(1), May 20, 1988, 102 Stat. 556, 559, 574; Pub. L. 101–237, title IV, § 423(b)(8)(A), Dec. 18, 1989, 103 Stat. 2093; renumbered § 4102A and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–446, title VII, § 701(a), title XII, § 1201(a)(4), Nov. 2, 1994, 108 Stat. 4674, 4682; Pub. L. 104–275, title III, § 301, Oct. 9, 1996, 110 Stat. 3332; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(29)(A), (f)(21)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–424, 2681–432; Pub. L. 105–368, title X, § 1005(b)(13), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107–288, § 4(a)(1), Nov. 7, 2002, 116 Stat. 2038; Pub. L. 108–183, title VII, § 708(b)(1)(A), (2), Dec. 16, 2003, 117 Stat. 2673.)

REFERENCES IN TEXT

The Jobs for Veterans Act, referred to in subsec. (c)(2)(B)(ii), is Pub. L. 107–288, Nov. 7, 2002, 116 Stat. 2033. For complete classification of this Act to the Code, see Short Title of 2002 Amendments note set out under section 101 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (c)(6) and (d), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. Section 136(b) of the Act is classified to section 2871(b) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

The Wagner-Peyser Act, referred to in subsec. (c)(6), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§ 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

AMENDMENTS

2003—Subsec. (c)(2)(B)(ii). Pub. L. 108–183, § 708(b)(1)(A), substituted ''October 1, 2003'' for ''October 1, 2002''.

Subsec. (f)(1). Pub. L. 108–183, § 708(b)(2), substituted ''May 7, 2003,'' for ''6 months after the date of the enactment of this section,''.

2002—Pub. L. 107–288 substituted ''Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators'' for ''Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators'' in section catchline and amended text generally, substituting subsecs. (a) to (g) for former subsecs. (a) to (e) relating to establishment of Assistant Secretary's position, program functions, conditions for receipt of funds, participation in other federally-funded job training programs, and regional administrators.

1998—Subsec. (d). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(21)(A)], struck out ''the Job Training Partnership Act and'' after ''and training opportunities under''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(29)(A)], substituted ''the Job Training Partnership Act and title I of the Workforce Investment Act of 1998'' for ''the Job Training Partnership Act''.

Subsec. (e)(1). Pub. L. 105–368 substituted ''A person may not be assigned after October 9, 1996, as such a Regional Administrator unless the person is a veteran.'' for ''Each Regional Administrator appointed after the date of the enactment of the Veterans' Benefits Improvements Act of 1996 shall be a veteran.''

1996—Subsec. (e)(1). Pub. L. 104–275 inserted at end ''Each Regional Administrator appointed after the date of the enactment of the Veterans' Benefits Improvements Act of 1996 shall be a veteran.''

1994—Subsec. (a). Pub. L. 103–446, § 701(a), designated existing provisions as par. (1), redesignated former cls. (1) and (2) as cls. (A) and (B), respectively, and added par. (2).

Subsec. (e)(1), (2). Pub. L. 103–446, § 1201(a)(4), substituted ''Regional Administrator'' for ''Regional Secretary''.

1991—Pub. L. 102–83, § 5(a), renumbered section 2002A of this title as this section.

Subsec. (b)(3). Pub. L. 102–83, § 5(c)(1), substituted ''1712A'' for ''612A'' and ''3687'' for ''1787''.

Subsec. (b)(5). Pub. L. 102–83, § 5(c)(1), substituted ''4103A(a)(1)'' for ''2003A(a)(1)'', ''4104(b)'' for ''2004(b)'', and ''4109'' for ''2009''.

Subsec. (b)(7). Pub. L. 102–83, § 5(c)(1), substituted ''4103A(a)(1) and 4104(a)(4)'' for ''2003A(a)(1) and ''2004(a)(4)''.

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted ''4103A(a) and 4104(a)'' for ''2003A(a) and 2004(a)'' and ''4103A or 4104'' for ''2003A or 2004''.

Subsec. (c)(2). Pub. L. 102–83, § 5(c)(1), substituted ''4103A or 4104'' for ''2003A or 2004'' and ''4103(c)(15)'' for ''2003(c)(15)''.

Subsec. (e)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' after ''Regional''.

Subsec. (e)(2). Pub. L. 102–83, § 5(c)(1), substituted ''4212'' for ''2012'' in subpar. (B).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' after ''Regional'' in introductory provisions.

1989—Subsec. (b)(3). Pub. L. 101–237 substituted ''Secretary of Veterans Affairs'' for ''Administrator''.

1988—Pub. L. 100–323, § 2(e)(3)(A), inserted ''and Training; Regional Administrators'' after ''for Veterans' Employment'' in section catchline.

Subsec. (a). Pub. L. 100–323, § 15(b)(1), inserted ''and Training'' after ''for Veterans' Employment'' in two places.

Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''to the Secretary''.

Pub. L. 100–323, § 2(a), designated existing provisions as subsec. (a).

Subsecs. (b) to (e). Pub. L. 100–323, § 2(a), added subsecs. (b) to (e).

1983—Pub. L. 98–160 substituted ''an Assistant'' for ''a Assistant''.

1982—Pub. L. 97–306 inserted provision that the employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans' Employment.

1980—Pub. L. 96–466 struck out ''Deputy'' before ''Assistant Secretary'' in section catchline and text.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title VII, § 708(b)(1)(B), Dec. 16, 2003, 117 Stat. 2673, provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the enactment of section 4(a) of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2038).''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 4(a)(4), Nov. 7, 2002, 116 Stat. 2042, provided that: ''The amendments made by this subsection [amending this section and sections 4103 and 4107 of this title and repealing section 4104A of this title] shall take effect on the date of the enactment of this Act [Nov. 7, 2002], and apply for program and fiscal years under chapter 41 of title 38, United States Code, beginning on or after such date.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(29)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(21)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–323 effective May 20, 1988, except that subsec. (b)(5) effective for all of fiscal year

1988 and subsequent fiscal years, see section 16(a), (b)(1)(A) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

EFFECTIVE DATE

Section effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as a note under section 3693 of this title.

REFERENCES TO AND CONTINUATION OF POSITION OF DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

Section 504(b), (c) of Pub. L. 96–466 provided that:

''(b) Any reference in any law, regulation, directive, or other document to the Deputy Assistant Secretary of Labor for Veterans' Employment shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment.

''(c) Notwithstanding any other provision of law, the position of Deputy Assistant Secretary of Labor for Veterans' Employment, as constituted on the day before the date of the enactment of this section [Oct. 17, 1980], shall remain in existence until a person has been appointed to and has qualified for the position of Assistant Secretary of Labor for Veterans' Employment (established by the amendments made by subsection (a) [amending sections 2002 and 2002A [now 4102 and 4102A] of this title]).''

[Reference to Assistant Secretary of Labor for Veterans' Employment in any law in force on Nov. 6, 1986, deemed to be a reference to Assistant Secretary of Labor for Veterans' Employment and Training, see section 2(b)(3) of Pub. L. 99–619, set out as a References in Other Laws note under section 553 of Title 29, Labor.]

[Section 802(e) of Pub. L. 96–466 provided that section 504(b), (c) are effective Oct. 1, 1980.]

§ 4103. Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel

(a) DIRECTORS AND ASSISTANT DIRECTORS.—(1) The Secretary shall assign to each State a representative of the Veterans' Employment and Training Service to serve as the Director for Veterans' Employment and Training, and shall assign full-time Federal clerical or other support personnel to each such Director.

(2) Each Director for Veterans' Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least two years.

(3) Full-time Federal clerical or other support personnel assigned to Directors for Veterans' Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

(b) ADDITIONAL FEDERAL PERSONNEL.—The Secretary may also assign as supervisory personnel such representatives of the Veterans' Employment and Training Service as the Secretary determines appropriate to carry out the employment, training, and placement services required under this chapter, including Assistant Directors for Veterans' Employment and Training.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1218, § 2012; renumbered § 2003, Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558; amended Pub. L. 89–358, § 6(c)(1), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1094; Pub. L. 93–508, title IV, § 401(c), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, §§ 602, 606(1), Oct. 15, 1976, 90 Stat. 2404, 2405; Pub. L. 96–466, title V, § 505, title VIII, § 801(i), Oct. 17, 1980, 94 Stat. 2204, 2216; Pub. L. 97–295, § 4(70), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97–306, title III, § 304(a)(1), (b), (c), Oct. 14, 1982, 96 Stat. 1437, 1438; Pub. L. 100–323, §§ 5, 7(a), 15(a)(2), (c)(1), (3)(A), May 20, 1988, 102 Stat. 563, 564, 574; Pub. L. 101–237, title IV, § 423(b)(8)(B), Dec. 18, 1989, 103 Stat. 2093; renumbered § 4103 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(d)(14), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104–275, title III, § 302, Oct. 9, 1996, 110 Stat. 3332; Pub. L. 107–288, § 4(a)(1), Nov. 7, 2002, 116 Stat. 2042.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(3), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Prior section 4103, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1243; Pub. L. 86–568, title I, § 114(a)–(e), July 1, 1960, 74 Stat. 300; Pub. L. 87–574, § 5, Aug. 6, 1962, 76 Stat. 309; Pub. L. 87–793, § 801, Oct. 11, 1962, 76 Stat. 859; Pub. L. 88–18, May 8, 1963, 77 Stat. 15; Pub. L. 88–426, title I, § 117(a), Aug. 14, 1964, 78 Stat. 409; Pub. L. 89–785, title I, § 103(a), (b), Nov. 7, 1966, 80 Stat. 1368; Pub. L. 93–82, title II, § 202, Aug. 2, 1973, 87 Stat. 188; Pub. L. 94–581, title I, § 110(2), title II, §§ 205(d), 209(c)(1), 210(c)(2), Oct. 21, 1976, 90 Stat. 2848, 2859, 2861, 2863; Pub. L. 96–330, title I, § 105(b), title III, § 303, Aug. 26, 1980, 94 Stat. 1036, 1050; Pub. L. 100–687, div. B, title XV, § 1506(b)(1), Nov. 18, 1988, 102 Stat. 4135, related to Office of Chief Medical Director, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7306 of this title.

Provisions similar to those comprising this section were contained in section 2002 of this title prior to the amendment of this chapter by Pub. L. 92–540.

AMENDMENTS

2002—Pub. L. 107–288 substituted ''Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel'' for ''Directors and Assistant Directors for Veterans' Employment and Training'' in section catchline and amended text generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (c) relating to Directors and Assistant Directors and their responsibilities.

1996—Subsec. (a). Pub. L. 104–275 substituted ''full-time Federal clerical or other support personnel'' for ''full-time Federal clerical support'' in first sentence and ''Full-time Federal clerical or other support personnel'' for ''Full-time Federal clerical support personnel'' in third sentence.

1994—Subsec. (c)(2). Pub. L. 103–446 substituted ''subchapter II of chapter 77'' for ''subchapter IV of chapter 3''.

1991—Pub. L. 102–83, § 5(a), renumbered section 2003 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''4107'' for ''2007''.

Subsec. (c)(8). Pub. L. 102–83, § 5(c)(1), substituted ''4212'' for ''2012''.

Subsec. (c)(11). Pub. L. 102–83, § 5(c)(1), substituted ''1712A'' for ''612A''.

1989—Subsec. (c)(2), (10). Pub. L. 101–237 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1988—Pub. L. 100–323, § 15(c)(3)(A), substituted ''Directors and Assistant Directors'' for ''State and Assistant

State Directors'' and inserted ''and Training'' after ''for Veterans' Employment'' in section catchline.

Subsec. (a). Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''The Secretary'' at beginning.

Pub. L. 100–323, § 15(c)(1), substituted ''Director for Veterans' Employment and Training'' for ''State Director for Veterans' Employment'' in two places, ''Assistant Director for Veterans' Employment and Training'' for ''Assistant State Director for Veterans' Employment'', ''Assistant Directors for Veterans' Employment and Training'' for ''Assistant State Directors for Veterans' Employment'', and ''Directors for Veterans' Employment and Training'' for ''State Directors for Veterans' Employment''.

Subsec. (b)(1)(A). Pub. L. 100–323, § 15(c)(1), substituted ''Director for Veterans' Employment and Training'' for ''State Director for Veterans' Employment'' and ''Assistant Director for Veterans' Employment and Training'' for ''Assistant State Director for Veterans' Employment''.

Pub. L. 100–323, § 5(1)–(3), designated existing provisions as subpar. (A), redesignated former cls. (A) and (B) as (i) and (ii), respectively, and substituted '', except as provided in subparagraph (B) of this paragraph, be a qualified veteran'' for ''be an eligible veteran'' in cl. (i).

Subpar. (b)(1)(B). Pub. L. 100–323, § 5(4), added subpar. (B).

Subsec. (b)(2). Pub. L. 100–323, § 15(c)(1), substituted ''Director for Veterans' Employment and Training'' for ''State Director for Veterans' Employment'' and ''Assistant Director for Veterans' Employment and Training'' for ''Assistant State Director for Veterans' Employment''.

Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''to the Secretary''.

Subsec. (c). Pub. L. 100–323, § 15(c)(1), substituted ''Director for Veterans' Employment and Training'' for ''State Director for Veterans' Employment'' and ''Assistant Directors for Veterans' Employment and Training'' for ''Assistant State Directors for Veterans' Employment''.

Subsec. (c)(1). Pub. L. 100–323, § 7(a)(1), inserted ''(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)'' after ''(1)'' and '', including the program conducted under the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)'' after ''programs''.

Subsec. (c)(2). Pub. L. 100–323, § 7(a)(2), inserted ''and otherwise to promote the employment of eligible veterans and eligible persons'' after ''opportunities''.

Subsec. (c)(13) to (15). Pub. L. 100–323, § 7(a)(3)–(5), added cls. (13) to (15).

1982—Pub. L. 97–306, § 304(a)(1), struck out text that preceded cl. (1), which related to assignment, number, qualifications, pay, and administrative position of veterans' employment representatives, and inserted in lieu thereof a revised section catchline and subsecs. (a) to (c) relating to State and Assistant State Directors for Veterans' Employment.

Pub. L. 97–295 substituted ''chapter 51 and'' for ''chapter 51 of''.

Subsec. (c)(6). Pub. L. 97–306, § 304(b), substituted provision of cl. (6) that the Director and Assistant Director promote and facilitate the participation of veterans in Federal and federally funded employment and training programs and directly monitor the implementation and operation of such programs to ensure that eligible veterans, veterans of the Vietnam era, disabled veterans, and eligible persons receive such priority or other special consideration in the provision of services as is required by law or regulation, for provision that they promote the participation of veterans in Comprehensive Employment and Training Act programs and monitor the implementation and operation of Comprehensive Employment and Training Act programs to assure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive special consideration when required.

Subsec. (c)(8) to (12). Pub. L. 97–306, § 304(c), added cls. (8) to (12).

1980—Pub. L. 96–466 in provisions preceding par. (1) inserted ''(and shall assign full-time clerical support to each such representative)'' after ''to serve as the veterans' employment representative'', struck out '', United States Code,'' after ''title 5'', substituted ''employment and training programs'' for ''manpower and training programs'', inserted ''system'' after ''public employment service'' wherever appearing, and in par. (6) inserted '', disabled veterans, and veterans of the Vietnam era'' after ''eligible veterans''.

1976—Pub. L. 94–502 substituted ''the Secretary shall determine'' for ''he shall determine'', ''such representative's'' for ''his'', ''administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act'' for ''administered by the Secretary'', added cl. (6), and redesignated former cl. (6) as (7).

1974—Pub. L. 93–508 substituted ''250,000 veterans and eligible persons of the State'' for ''250,000 veterans of the State'', and ''Secretary's veterans' and eligible persons' counseling and placement policies'' for ''Secretary's veterans' counseling and placement policies'', and in cls. (1), (2), (4), (5), and (6) of the fifth sentence substituted ''eligible veterans and eligible persons'' for ''eligible veterans'', in cl. (3) substituted ''eligible veteran's or an eligible person's'' for ''eligible veteran's'', and in cl. (4) substituted ''such veterans and persons'' for ''such veterans''.

1972—Pub. L. 92–540 substituted provisions relating to the assignment of veterans' employment representatives for provisions relating to the assignment of employees of local offices. See section 2004 of this title.

1966—Pub. L. 89–358 inserted ''or of service after January 31, 1955'' after ''veterans of any war''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–288 effective Nov. 7, 2002, and applicable for program and fiscal years under this chapter beginning on or after such date, see section 4(a)(4) of Pub. L. 107–288, set out as a note under section 4102A of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 15(a)(2), (c)(1), (3)(A) of Pub. L. 100–323 effective May 20, 1988, and amendment by sections 5 and 7(a) of Pub. L. 100–323 effective on 60th day after May 20, 1988, see section 16(a), (b)(2) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 505 of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

Amendment by section 801(i) of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as a note under section 4101 of this title.

§ 4103A. Disabled veterans' outreach program

(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF SPECIALISTS.—(1)

Subject to approval by the Secretary, a State shall employ such full- or part-time disabled veterans' outreach program specialists as the State determines appropriate and efficient to carry out intensive services under this chapter to meet the employment needs of eligible veterans with the following priority in the provision of services:

(A) Special disabled veterans.

(B) Other disabled veterans.

(C) Other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

(2) In the provision of services in accordance with this subsection, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

(b) REQUIREMENT FOR QUALIFIED VETERANS.—A State shall, to the maximum extent practicable, employ qualified veterans to carry out the services referred to in subsection (a). Preference shall be given in the appointment of such specialists to qualified disabled veterans.

(Added Pub. L. 96–466, title V, § 506(a), Oct. 17, 1980, 94 Stat. 2204, § 2003A; amended Pub. L. 97–306, title III, § 305, Oct. 14, 1982, 96 Stat. 1439; Pub. L. 100–323, §§ 2(e)(1), 7(b), 15(c)(1), May 20, 1988, 102 Stat. 559, 565, 574; Pub. L. 101–237, title IV, § 423(b)(8), Dec. 18, 1989, 103 Stat. 2093; renumbered § 4103A and amended Pub. L. 102–83, §§ 2(c)(4), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402, 406; Pub. L. 102–568, title V, §§ 501, 503, Oct. 29, 1992, 106 Stat. 4340; Pub. L. 103–446, title VII, § 701(b), Nov. 2, 1994, 108 Stat. 4674; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(29)(B), (f)(21)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–424, 2681–432; Pub. L. 105–368, title X, § 1004(a), Nov. 11, 1998, 112 Stat. 3364; Pub. L. 107–95, § 9(a), Dec. 21, 2001, 115 Stat. 920; Pub. L. 107–288, § 4(b)(1), Nov. 7, 2002, 116 Stat. 2043.)

AMENDMENTS

2002—Pub. L. 107–288 amended section generally, substituting subsecs. (a) and (b) for former subsecs. (a) to (c) relating to appointment, services and stationing, and functions of disabled veterans' outreach program specialists.

2001—Subsec. (c)(11). Pub. L. 107–95 added par. (11).

1998—Subsec. (a)(1). Pub. L. 105–368, in first sentence, substituted ''for each 7,400 veterans who are between the ages of 20 and 64 residing in such State.'' for ''for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.'', in third sentence, struck out ''of the Vietnam era'' after ''disabled veterans'', and struck out after third sentence ''If the Secretary finds that a qualified disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other qualified disabled veterans.''

Subsec. (c)(4). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(21)(B)], struck out ''part C of title IV of the Job Training Partnership Act and'' after ''training programs including''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(29)(B)], substituted ''including part C of title IV of the Job Training Partnership Act and title I of the Workforce Investment Act of 1998'' for ''(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))''.

1994—Subsec. (a)(1). Pub. L. 103–446 substituted ''rates comparable to those paid other professionals performing essentially similar duties'' for ''a rate not less than the rate prescribed for an entry level professional''.

1992—Subsec. (a)(1). Pub. L. 102–568, § 501, substituted ''specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.'' for ''specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State.''

Subsec. (b)(1)(A). Pub. L. 102–568, § 503, amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.''

1991—Pub. L. 102–83, § 5(a), renumbered section 2003A of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''4102A(b)(5)(A)(i)'' for ''2002A(b)(5)(A)(i)'' in par. (1) and ''4104'' for ''2004'' in par. (2).

Subsec. (b)(2). Pub. L. 102–83, § 5(c)(1), substituted ''4103'' for ''2003'' and ''1712A'' for ''612A''.

Pub. L. 102–83, § 2(c)(4), substituted ''7723'' for ''242''.

Subsec. (c)(2). Pub. L. 102–83, § 5(c)(1), substituted ''3687'' for ''1787''.

1989—Subsecs. (b)(2), (c)(2), (3), (8). Pub. L. 101–237 substituted ''Secretary of Veterans Affairs'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1988—Subsec. (a)(1). Pub. L. 100–323, § 2(e)(1)(A)(i), (ii), redesignated par. (2) as (1), substituted ''The amount of funds made available for use in a State under section 2002A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State.'' for ''Funds provided for use in a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State.'', inserted ''qualified'' before ''veteran'' in second sentence, inserted ''qualified'' before ''disabled'' wherever appearing in third, fourth, and fifth sentences, inserted ''qualified'' after ''any'' in fifth sentence, and struck out former par. (1) which read as follows: ''The Secretary of Labor, acting through the Assistant Secretary for Veterans' Employment, shall make available for use in each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.''

Subsec. (a)(2). Pub. L. 100–323, § 2(e)(1)(A)(i), (iii), redesignated par. (4) as (2) and struck out ''paragraph (2) of'' after ''appointed pursuant to''. Former par. (2) redesignated (1).

Subsec. (a)(3). Pub. L. 100–323, § 2(e)(1)(A)(i), struck out par. (3) which read as follows: ''The Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment, shall also make available for use in the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.''

Subsec. (a)(4). Pub. L. 100–323, § 2(e)(1)(A)(i), redesignated par. (4) as (2).

Subsec. (a)(5). Pub. L. 100–323, § 2(e)(1)(A)(i), struck out par. (5) which read as follows: ''The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section.''

Subsec. (b)(2). Pub. L. 100–323, § 15(c)(1), substituted ''Director for Veterans' Employment and Training'' for ''State Director for Veterans' Employment''.

Subsec. (c)(4). Pub. L. 100–323, § 7(b)(1), inserted ''(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))'' after ''programs''.

Subsec. (c)(6). Pub. L. 100–323, § 7(b)(2), inserted ''(including the program conducted under the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note))'' after ''programs''.

Subsec. (c)(9), (10). Pub. L. 100–323, § 7(b)(3), added pars. (9) and (10).

Subsec. (d). Pub. L. 100–323, § 2(e)(1)(B), struck out subsec. (d) which read as follows: ''The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment. The Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsection (a)(2) of this section with respect to the employment of such specialists.''

1982—Subsec. (a)(1). Pub. L. 97–306, § 305(a)(1), (3), inserted '', acting through the Assistant Secretary for Veterans' Employment,'' after ''Secretary of Labor'', and substituted ''available for use in'' for ''available to''.

Subsec. (a)(2). Pub. L. 97–306, § 305(a)(4), substituted ''provided for use in'' for ''provided to''.

Subsec. (a)(3). Pub. L. 97–306, § 305(a)(2), (3), inserted '', acting through the Assistant Secretary of Labor for Veterans' Employment,'' after ''Secretary'', and substituted ''available for use in'' for ''available to''.

Subsec. (a)(5). Pub. L. 97–306, § 305(a)(5), added par. (5).

Subsec. (b)(2). Pub. L. 97–306, § 305(b), inserted provision relating to waiver of the limitation on stationing at local employment service offices of disabled veterans' outreach program specialists and substituted ''section 612A'' for ''section 621A''.

Subsec. (c)(4). Pub. L. 97–306, § 305(c)(1), substituted ''appropriate grantees under other Federal and federally funded employment and training programs'' for ''prime sponsors under the Comprehensive Employment and Training Act''.

Subsec. (c)(8). Pub. L. 97–306, § 305(c)(2), added par. (8).

Subsecs. (d), (e). Pub. L. 97–306, § 305(d), redesignated subsec. (e) as (d) and inserted provision that the Secretary shall monitor the appointment of disabled veterans' outreach program specialists to ensure compliance with the provisions of subsec. (a)(2) of this section with respect to the employment of such specialists. Former subsec. (d), which provided that persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section would be appointed as disabled veterans' outreach program specialists in the State in which such individual was so serving, unless the Secretary for good cause shown determined that such individual was not qualified for such appointment, was struck out.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 4(b)(3), Nov. 7, 2002, 116 Stat. 2044, provided that: ''The amendments made by this subsection [amending this section and section 4104 of this title] shall take effect on the date of the enactment of this Act [Nov. 7, 2002], and apply for program years under chapter 41 of title 38, United States Code, beginning on or after such date.''

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–368, title X, § 1004(b), Nov. 11, 1998, 112 Stat. 3364, provided that: ''The amendments made by this section [amending this section] shall apply with respect to appointments of disabled veterans' outreach program specialists under section 4103A of title 38, United States Code, on or after the date of the enactment of this Act [Nov. 11, 1998].''

Amendment by section 101(f) [title VIII, § 405(d)(29)(B)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(21)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 2(e)(1)(B) and 15(c)(1) of Pub. L. 100–323 effective May 20, 1988, amendment by section 2(e)(1)(A) of Pub. L. 100–323 effective for all of fiscal year 1988 and subsequent fiscal years, and amendment by section 7(b) of Pub. L. 100–323 effective on 60th day after May 20, 1988, see section 16(a), (b)(1)(B), (2) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as an Effective Date of 1980 Amendment note under section 4101 of this title.

§ 4104. Local veterans' employment representatives

(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF REPRESENTATIVES.—Subject to approval by the Secretary, a State shall employ such full- and part-time local veterans' employment representatives as the State determines appropriate and efficient to carry out employment, training, and placement services under this chapter.

(b) PRINCIPAL DUTIES.—As principal duties, local veterans' employment representatives shall—

(1) conduct outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and

(2) facilitate employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery systems.

(c) REQUIREMENT FOR QUALIFIED VETERANS AND ELIGIBLE PERSONS.—A State shall, to the maximum extent practicable, employ qualified veterans or eligible persons to carry out the services referred to in subsection (a). Preference shall be accorded in the following order:

(1) To qualified service-connected disabled veterans.

(2) If no veteran described in paragraph (1) is available, to qualified eligible veterans.

(3) If no veteran described in paragraph (1) or (2) is available, then to qualified eligible persons.

(d) REPORTING.—Each local veterans' employment representative shall be administratively responsible to the manager of the employment service delivery system and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1219, § 2013; renumbered § 2004, Pub. L. 87–675, § 1(a), Sept. 19, 1962, 76 Stat. 558; amended Pub. L. 89–358, § 6(c)(1), Mar. 3, 1966, 80 Stat. 27; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1095; Pub. L. 94–502, title VI, § 606(2), Oct. 15, 1976, 90 Stat.

2405; Pub. L. 100–323, §3(a), May 20, 1988, 102 Stat. 560; Pub. L. 101–237, title IV, §423(b)(8)(B), Dec. 18, 1989, 103 Stat. 2093; Pub. L. 102–16, §10(a)(8), Mar. 22, 1991, 105 Stat. 56; renumbered §4104 and amended Pub. L. 102–83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–14, §8(a)(10), June 5, 2001, 115 Stat. 35; Pub. L. 107–95, §9(b), Dec. 21, 2001, 115 Stat. 920; Pub. L. 107–288, §4(b)(2), Nov. 7, 2002, 116 Stat. 2043.)

PRIOR PROVISIONS

Prior section 4104, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1244; Pub. L. 89–785, title I, §104, Nov. 7, 1966, 80 Stat. 1369; Pub. L. 94–123, §5(a), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94–581, title I, §110(3), title II, §§209(a)(1), (2), 210(c)(3), Oct. 21, 1976, 90 Stat. 2848, 2860, 2863; Pub. L. 96–151, title III, §302(a), Dec. 20, 1979, 93 Stat. 1096; Pub. L. 98–160, title II, §201, Nov. 21, 1983, 97 Stat. 1000; Pub. L. 98–528, title I, §108, Oct. 19, 1984, 98 Stat. 2690; Pub. L. 100–322, title II, §211(a), May 20, 1988, 102 Stat. 513; Pub. L. 101–366, title I, §102(a), Aug. 15, 1990, 104 Stat. 430, related to appointment of additional personnel for medical care of veterans, prior to repeal by Pub. L. 102–40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 210. See section 7401 of this title.

Provisions similar to those comprising this section were contained in former section 2003 of this title prior to the amendment of this chapter by Pub. L. 92–540.

AMENDMENTS

2002—Pub. L. 107–288 amended text generally, substituting subsecs. (a) to (d) for former subsecs. (a) to (c) relating to appointment, functions, and reporting requirements of local veterans' employment representatives.

2001—Subsec. (a)(1). Pub. L. 107–14, §8(a)(10)(A)(i), substituted ''For any fiscal year,'' for ''Beginning with fiscal year 1988,'' in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 107–14, §8(a)(10)(A)(ii), substituted ''subparagraph (A)'' for ''clause (A)''.

Subsec. (a)(1)(C). Pub. L. 107–14, §8(a)(10)(A)(iii), substituted ''subparagraphs (A) and (B)'' for ''clauses (A) and (B)''.

Subsec. (a)(4). Pub. L. 107–14, §8(a)(10)(B), struck out ''on or after July 1, 1988'' after ''local veterans' employment representatives''.

Subsec. (b). Pub. L. 107–14, §8(a)(10)(C)(i), substituted ''shall perform the following functions:'' for ''shall—'' in introductory provisions.

Subsec. (b)(1) to (10). Pub. L. 107–14, §8(a)(10)(C)(ii), (iii), capitalized the first letter of the first word and substituted a period for the semicolon at end.

Subsec. (b)(11). Pub. L. 107–95, §9(b)(1), which directed that ''and'' be struck out at end, could not be executed because of the intervening amendment by Pub. L. 107–14, §8(a)(10)(C)(iv). See below.

Pub. L. 107–14, §8(a)(10)(C)(ii), (iv), capitalized the first letter of the first word and substituted a period for ''; and'' at end.

Subsec. (b)(12). Pub. L. 107–95, §9(b)(2), substituted ''; and'' for period at end.

Pub. L. 107–14, §8(a)(10)(C)(ii), capitalized the first letter of the first word.

Subsec. (b)(13). Pub. L. 107–95, §9(b)(3), added par. (13).

1991—Pub. L. 102–83, §5(a), renumbered section 2004 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, §5(c)(1), substituted ''4102A(b)(5)(A)(ii)'' for ''2002A(b)(5)(A)(ii)'' in introductory provisions.

Pub. L. 102–16, §10(a)(8)(A), (B), substituted ''appointment'' for ''assignment'' in two places in introductory provisions and in subpar. (C).

Subsec. (a)(4). Pub. L. 102–16, §10(a)(8)(C), substituted ''appointment'' for ''assigning''.

Subsec. (b)(6). Pub. L. 102–83, §5(c)(1), substituted ''4212'' for ''2012''.

Subsec. (b)(10). Pub. L. 102–83, §5(c)(1), substituted ''1712A'' for ''612A''.

Subsec. (d). Pub. L. 102–16, §10(a)(8)(D), struck out subsec. (d) which read as follows: ''Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State after consultation with the Director for Veterans' Employment and Training.''

1989—Subsec. (b)(7). Pub. L. 101–237 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1988—Pub. L. 100–323 substituted ''Local veterans' employment representatives'' for ''Employees of local offices'' as section catchline and amended section generally. Prior to amendment, section read as follows: ''Except as may be determined by the Secretary of Labor based on a demonstrated lack of need for such services, there shall be assigned by the administrative head of the employment service in each State one or more employees, preferably eligible veterans or eligible persons, on the staffs of local employment service offices, whose services shall be fully devoted to discharging the duties prescribed for the veterans' employment representative and such representative's assistants.''

1976—Pub. L. 94–502 substituted ''eligible veterans or eligible persons'' for ''eligible veterans'' and ''such representative's'' for ''his''.

1972—Pub. L. 92–540 substituted provisions relating to the assignment of employees of local offices for provisions relating to the cooperation of other Federal agencies. See section 2005 of this title.

1966—Pub. L. 89–358 inserted ''or of service after January 31, 1955'' after ''veterans of any war''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–288 effective Nov. 7, 2002, and applicable for program years under this chapter beginning on or after such date, see section 4(b)(3) of Pub. L. 107–288, set out as a note under section 4103A of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–323 effective May 20, 1988, except that subsec. (a)(1) to (3) effective for all of fiscal year 1988 and subsequent fiscal years, see section 16(a), (b)(1)(C) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as a note under section 4101 of this title.

PILOT PROGRAM TO INTEGRATE AND STREAMLINE FUNCTIONS OF LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES

Pub. L. 104–275, title III, §303, Oct. 9, 1996, 110 Stat. 3332, as amended by Pub. L. 105–368, title X, §1005(c)(1), Nov. 11, 1998, 112 Stat. 3366, provided that:

''(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—In order to assess the effects on the timeliness and quality of services to veterans resulting from re-focusing the staff resources of local veterans' employment representatives, the Secretary of Labor may conduct a pilot program under which the primary responsibilities of local veterans' employment representatives will be case management and the provision and facilitation of direct employment and training services to veterans.

''(b) AUTHORITIES UNDER CHAPTER 41.—To implement the pilot program, the Secretary of Labor may suspend or limit application of those provisions of chapter 41 of title 38, United States Code (other than subsections (b)(1) and (c) of section 4104) that pertain to the Local Veterans' Employment Representative Program in States designated by the Secretary under subsection

(d), except that the Secretary may use the authority of such chapter, as the Secretary may determine, in conjunction with the authority of this section, to carry out the pilot program. The Secretary may collect such data as the Secretary considers necessary for assessment of the pilot program. The Secretary shall measure and evaluate on a continuing basis the effectiveness of the pilot program in achieving its stated goals in general, and in achieving such goals in relation to their cost, their effect on related programs, and their structure and mechanisms for delivery of services.

''(c) TARGETED VETERANS.—Within the pilot program, eligible veterans who are among groups most in need of intensive services, including disabled veterans, economically disadvantaged veterans, and veterans separated within the previous four years from active military, naval, or air service shall be given priority for service by local veterans' employment representatives. Priority for the provision of service shall be given first to disabled veterans and then to the other categories of veterans most in need of intensive services in accordance with priorities determined by the Secretary of Labor in consultation with appropriate State labor authorities.

''(d) STATES DESIGNATED.—The pilot program shall be limited to not more than five States to be designated by the Secretary of Labor.

''(e) REPORTS TO CONGRESS.—(1) Not later than one year after the date of the enactment of this Act [Oct. 9, 1996], the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an interim report describing in detail the development and implementation of the pilot program on a State by State basis.

''(2) Not later than 120 days after the expiration of this section under subsection (h), the Secretary of Labor shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a final report evaluating the results of the pilot program and make recommendations based on the evaluation, which may include legislative recommendations.

''(f) DEFINITIONS.—For the purposes of this section:

''(1) The term 'veteran' has the meaning given such term by section 101(2) of title 38, United States Code.

''(2) The term 'disabled veteran' has the meaning given such term by section 4211(3) of such title.

''(3) The term 'active military, naval, or air service' has the meaning given such term by section 101(24) of such title.

''(g) ALLOCATION OF FUNDS.—Any amount otherwise available for fiscal year 1997, 1998, or 1999 to carry out section 4102A(b)(5) of title 38, United States Code, with respect to a State designated by the Secretary of Labor pursuant to subsection (d) shall be available to carry out the pilot program during that fiscal year with respect to that State.

''(h) EXPIRATION DATE.—The authority to carry out the pilot program under this section shall expire on October 1, 1999.''

[§ 4104A. Repealed. Pub. L. 107–288, § 4(a)(3)(A)(i), Nov. 7, 2002, 116 Stat. 2042]

Section, added Pub. L. 100–323, § 4(a)(1), May 20, 1988, 102 Stat. 562, § 2004A; renumbered § 4104A and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to performance of disabled veterans' outreach program specialists and local veterans' employment representatives.

EFFECTIVE DATE OF REPEAL

Repeal effective Nov. 7, 2002, and applicable for program and fiscal years under this chapter beginning on or after such date, see section 4(a)(4) of Pub. L. 107–288, set out as an Effective Date of 2002 Amendment note under section 4102A of this title.

§ 4105. Cooperation of Federal agencies

(a) All Federal agencies shall furnish the Secretary such records, statistics, or information as the Secretary may deem necessary or appropriate in administering the provisions of this chapter, and shall otherwise cooperate with the Secretary in providing continuous employment and training opportunities for eligible veterans and eligible persons.

(b) For the purpose of assisting the Secretary and the Secretary of Veterans Affairs in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98–77; 29 U.S.C. 1721 note)[1] and otherwise in order to carry out this chapter, the Secretary of Defense shall provide, not more than 30 days after the date of the enactment of this subsection, the Secretary and the Secretary of Veterans Affairs with any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve and shall provide, on the 15th day of each month thereafter, updated information regarding the list.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1219, § 2014; renumbered § 2005 and amended Pub. L. 87–675, § 1(a), (c), Sept. 19, 1962, 76 Stat. 558, 559; Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1095; Pub. L. 93–508, title IV, § 401(d), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, § 606(3), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 100–323, §§ 6(a), 15(a)(2), May 20, 1988, 102 Stat. 564, 574; Pub. L. 101–237, title IV, § 423(b)(8)(A), Dec. 18, 1989, 103 Stat. 2093; renumbered § 4105, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

The Veterans' Job Training Act, referred to in subsec. (b), is Pub. L. 98–77, Aug. 15, 1983, 97 Stat. 443, as amended, which is set out as a note under section 2913 of Title 29, Labor. For complete classification of this Act to the Code, see Tables.

The date of the enactment of this subsection, referred to in subsec. (b), is the date of enactment of Pub. L. 100–323, which was approved May 20, 1988.

PRIOR PROVISIONS

Prior section 4105, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1244; Pub. L. 87–574, § 4(1), Aug. 6, 1962, 76 Stat. 308; Pub. L. 89–785, title I, § 105, Nov. 7, 1966, 80 Stat. 1369; Pub. L. 94–123, § 5(b), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94–581, title I, § 110(4), title II, §§ 205(e), 209(a)(1), (2), (4), (c)(2), Oct. 21, 1976, 90 Stat. 2848, 2859, 2860, 2861; Pub. L. 95–201, § 4(a)(1), Nov. 23, 1977, 91 Stat. 1430; Pub. L. 96–151, title III, § 302(b), Dec. 20, 1979, 93 Stat. 1096; Pub. L. 97–295, § 4(81), Oct. 12, 1982, 96 Stat. 1311; Pub. L. 98–160, title II, § 202, Nov. 21, 1983, 97 Stat. 1000, related to qualifications of appointees to positions in Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7402 of this title.

Provisions similar to those comprising this section were contained in former section 2004 of this title prior to the amendment of this chapter by Pub. L. 92–540.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 2005 of this title as this section.

1989—Subsec. (b). Pub. L. 101–237 substituted ''Secretary of Veterans Affairs'' for ''Administrator'' wherever appearing.

1988—Subsec. (a). Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''furnish the Secretary''.

Pub. L. 100–323, § 6(a)(1), designated existing provisions as subsec. (a).

[1] See References in Text note below.

Subsec. (b). Pub. L. 100–323, § 6(a)(2), added subsec. (b).

1976—Pub. L. 94–502 substituted ''the Secretary may deem'' for ''he may deem''.

1974—Pub. L. 93–508 substituted ''eligible veterans and eligible persons'' for ''eligible veterans''.

1972—Pub. L. 92–540 substituted provisions relating to the cooperation of other Federal agencies for provisions relating to the estimation of funds for administration. See section 2006 of this title.

1962—Pub. L. 87–675 substituted ''chapter'' for ''subchapter'' after ''administration of this''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6(a) of Pub. L. 100–323 effective on 60th day after May 20, 1988, and amendment by section 15(a)(2) of Pub. L. 100–323 effective May 20, 1988, see section 16(a), (b)(2) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as a note under section 4101 of this title.

§ 4106. Estimate of funds for administration; authorization of appropriations

(a) The Secretary shall estimate the funds necessary for the proper and efficient administration of this chapter and chapters 42 and 43 of this title. Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. Estimated funds necessary for proper intensive services, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. Funds estimated pursuant to the first sentence of this subsection shall include amounts necessary in all of the States for the purposes specified in paragraph (5) of section 4102A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 4109 of this title and shall be approved by the Secretary only if the level of funding proposed is in compliance with such sections. Each budget submission with respect to such funds shall include a separate listing of the amount for the National Veterans' Employment and Training Services Institute together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections.

(Added Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1096, § 2006; amended Pub. L. 93–508, title IV, § 401(e), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, § 603, Oct. 15, 1976, 90 Stat. 2404; Pub. L. 97–306, title III, § 306, Oct. 14, 1982, 96 Stat. 1440; Pub. L. 100–323, §§ 2(b), (c), (e)(2), 15(a)(2), May 20, 1988, 102 Stat. 558, 559, 574; renumbered § 4106 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–288, §§ 4(d)(1), 5(a)(1)(C), Nov. 7, 2002, 116 Stat. 2044.)

PRIOR PROVISIONS

Prior section 4106, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1245; Pub. L. 89–785, title I, § 106, Nov. 7, 1966, 80 Stat. 1369; Pub. L. 94–123, § 5(c), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94–581, title I, § 110(5), title II, § 209(a)(1), (b)(1), Oct. 21, 1976, 90 Stat. 2848, 2860, 2861; Pub. L. 96–151, title III, § 303, Dec. 20, 1979, 93 Stat. 1096; Pub. L. 98–160, title II, § 203(a), Nov. 21, 1983, 97 Stat. 1000; Pub. L. 99–576, title VII, § 701(86), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100–322, title II, § 221, May 20, 1988, 102 Stat. 531; Pub. L. 101–237, title II, § 203, Dec. 18, 1989, 103 Stat. 2067, related to period of appointment and promotions of persons appointed to Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7403 of this title.

Provisions similar to those comprising this section were contained in former section 2005 of this title prior to the amendment of this chapter by Pub. L. 92–540.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–288, § 5(a)(1)(C), substituted ''proper intensive services'' for ''proper counseling''.

Pub. L. 107–288, § 4(d)(1), amended last sentence generally. Prior to amendment, last sentence read as follows: ''Each budget submission with respect to such funds shall include separate listings of the amount for the National Veterans' Employment and Training Services Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 4103A of this title and local veterans' employment representatives assigned under section 4104 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.''

1991—Pub. L. 102–83, § 5(a), renumbered section 2006 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''4102A(b)'' for ''2002A(b)'', ''4109'' for ''2009'', ''4103A'' for ''2003A'', and ''4104'' for ''2004''.

1988—Subsec. (a). Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''Secretary'' in first and fifth sentences.

Pub. L. 100–323, § 2(b), (e)(2), substituted ''in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 2009'' for ''to fund the disabled veterans' outreach program under section 2003A'' and ''with such sections'' for ''with such section'' in fifth sentence, inserted after fifth sentence ''Each budget submission

with respect to such funds shall include separate listings of the amount for the National Veterans' Employment and Training Services Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A of this title and local veterans' employment representatives assigned under section 2004 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.'', and struck out at end ''Each budget submission with respect to such funds shall include a separate listing of the proposed number, by State, for disabled veterans outreach program specialists appointed under such section. The Secretary shall carry out this subsection through the Assistant Secretary for Veterans' Employment.''

Subsec. (d). Pub. L. 100–323, § 2(c), struck out '', except with the approval of the Secretary of Labor, upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment, based on a demonstrated lack of need for such funds for such purposes'' after ''in such subsections''.

1982—Subsec. (a). Pub. L. 97–306, § 306(a), inserted ''and chapters 42 and 43 of this title'' after ''administration of this chapter'', and inserted provisions at end relating to the inclusion in estimated necessary funds of amounts necessary to fund the disabled veterans' outreach program, inclusion in budgets of the proposed number for program specialists, and the carrying out of this subsection through the Assistant Secretary for Veterans' Employment.

Subsec. (d). Pub. L. 97–306, § 306(b), inserted '', upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment,'' after ''Secretary of Labor''.

1976—Subsec. (a). Pub. L. 94–502 substituted ''agencies shall each be'' for ''agencies shall be''.

1974—Subsec. (a). Pub. L. 93–508 substituted ''training services to eligible veterans and eligible persons'' for ''training services to veterans''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 4(d)(2), Nov. 7, 2002, 116 Stat. 2044, provided that: ''The amendment made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 7, 2002], and apply to budget submissions for fiscal year 2004 and each subsequent fiscal year.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

§ 4107. Administrative controls; annual report

(a) The Secretary shall establish administrative controls for the following purposes:

(1) To insure that each eligible veteran, especially veterans of the Vietnam era and disabled veterans, and each eligible person who requests assistance under this chapter shall promptly be placed in a satisfactory job or job training opportunity or receive some other specific form of assistance designed to enhance such veteran's and eligible person's employment prospects substantially, such as individual job development or intensive services.

(2) To determine whether or not the employment service agencies in each State have committed the necessary staff to insure that the provisions of this chapter are carried out; and to arrange for necessary corrective action where staff resources have been determined by the Secretary to be inadequate.

(b) The Secretary shall apply performance standards established under section 4102A(f) of this title for determining compliance by the State public employment service agencies with the provisions of this chapter and chapter 42 of this title. Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the performance of States and organizations and entities carrying out employment, training, and placement services under this chapter, as measured under subsection (b)(7) of section 4102A of this title. In the case of a State that the Secretary determines has not met the minimum standard of performance (established by the Secretary under subsection (f) of such section), the Secretary shall include an analysis of the extent and reasons for the State's failure to meet that minimum standard, together with the State's plan for corrective action during the succeeding year.

(c) Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons. The report shall include—

(1) specification, by State and by age group, of the numbers of eligible veterans, disabled veterans, special disabled veterans, eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by, the public employment service system and, for each of such categories, the numbers referred to and placed in permanent and other jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number who received intensive services, and the number who received some, and the number who received no, reportable service;

(2) a comparison of the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998) for each of the categories of veterans and persons described in clause (1) of this subsection with such rate of entered employment (as so determined) for nonveterans of the same age groups registered for assistance with the public employment system in each State;

(3) any determination made by the Secretary during the preceding fiscal year under section 4106 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

(4) a report on activities carried out during the preceding program year under section 4212(d) of this title;

(5) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of such programs during such program year in meeting the requirements of section 4102A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action relating to veterans' employment and training as the Secretary considers appropriate; and

(6) a report on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title.

(Added Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1096, § 2007; amended Pub. L. 93–508, title IV, § 401(f), Dec. 3, 1974, 88 Stat. 1592; Pub. L. 94–502, title VI, § 604, Oct. 15, 1976, 90 Stat. 2404; Pub. L. 95–202, title III, § 309(b), Nov. 23, 1977, 91 Stat. 1446; Pub. L. 96–466, title V, § 507, Oct. 17, 1980, 94 Stat. 2205; Pub. L. 97–306, title III, § 307, Oct. 14, 1982, 96 Stat. 1440; Pub. L. 100–323, §§ 2(d), 15(a)(2), May 20, 1988, 102 Stat. 558, 574; renumbered § 4107 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–288, §§ 4(a)(3)(B), (e)(1), 5(a)(1)(D), (E), (d)(1), Nov. 7, 2002, 116 Stat. 2042, 2044, 2045.)

References in Text

Section 136(b) of the Workforce Investment Act of 1998, referred to in subsec. (c)(2), is classified to section 2871(b) of Title 29, Labor.

Prior Provisions

Prior section 4107, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1245; Pub. L. 86–568, title I, § 114(f), July 1, 1960, 74 Stat. 301; Pub. L. 87–793, § 802, Oct. 11, 1962, 76 Stat. 860; Pub. L. 88–426, title I, § 118, Aug. 14, 1964, 78 Stat. 410; Pub. L. 89–301, § 7, Oct. 29, 1965, 79 Stat. 1117; Pub. L. 89–504, title I, § 105, July 18, 1966, 80 Stat. 291; Pub. L. 89–785, title I, § 107(a), Nov. 7, 1966, 80 Stat. 1370; Pub. L. 90–206, title II, § 208, Dec. 16, 1967, 81 Stat. 631; Pub. L. 91–496, § 2, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93–82, title II, § 203, Aug. 2, 1973, 87 Stat. 188; Pub. L. 94–123, §§ 2(b), 5(d), Oct. 22, 1975, 89 Stat. 669, 675; Pub. L. 94–581, title I, § 110(6), title II, §§ 209(a)(1), (2), (b)(2), (c)(3), 210(c)(4), Oct. 21, 1976, 90 Stat. 2848, 2860, 2861, 2863; Pub. L. 95–201, § 5(a)(1), (2), Nov. 23, 1977, 91 Stat. 1432; Pub. L. 96–22, title V, § 504, June 13, 1979, 93 Stat. 65; Pub. L. 96–330, title I, §§ 105(c), 111, 112, Aug. 26, 1980, 94 Stat. 1036, 1037; Pub. L. 96–385, title V, § 508(a), Oct. 7, 1980, 94 Stat. 1538; Pub. L. 97–251, § 2(a)–(c), Sept. 8, 1982, 96 Stat. 711, 712; Pub. L. 97–295, § 4(82), Oct. 12, 1982, 96 Stat. 1311; Pub. L. 98–160, title II, § 204, Nov. 21, 1983, 97 Stat. 1001; Pub. L. 98–528, title I, §§ 101(b), 109, Oct. 19, 1984, 98 Stat. 2688, 2691; Pub. L. 99–576, title VII, § 701(87), Oct. 28, 1986, 100 Stat. 3299; Pub. L. 100–322, title II, §§ 211(b), 212(b), 213, 214(a), (b), 217, May 20, 1988, 102 Stat. 514, 516, 530; Pub. L. 100–687, div. B, title XV, § 1506(b)(2), Nov. 18, 1988, 102 Stat. 4136; Pub. L. 101–237, title II, §§ 204, 205(a), Dec. 18, 1989, 103 Stat. 2067; Pub. L. 101–366, title I, §§ 101(c), 102(c), 103, Aug. 15, 1990, 104 Stat. 430, 436, 437, related to grades and pay scales of positions in Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See sections 7404, 7426, and 7453 to 7457 of this title.

Amendments

2002—Subsec. (a)(1). Pub. L. 107–288, § 5(a)(1)(D), substituted "intensive services" for "employment counseling services".

Subsec. (b). Pub. L. 107–288, § 5(d)(1)(E), inserted second and third sentences and struck out former second sentence which read as follows: "A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary required by subsection (c) of this section."

Pub. L. 107–288, § 4(a)(3)(B), substituted "The Secretary shall apply performance standards established under section 4102A(f) of this title" for "The Secretary shall establish definitive performance standards".

Subsec. (c)(1). Pub. L. 107–288, § 5(d)(1)(A), struck out "veterans of the Vietnam era," before "disabled veterans, special" and substituted "eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by," for "and eligible persons who registered for assistance with".

Pub. L. 107–288, § 5(a)(1)(E), substituted "the number who received intensive services" for "the number counseled".

Subsec. (c)(2). Pub. L. 107–288, § 5(d)(1)(B), substituted "the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998) for each of the categories" for "the job placement rate for each of the categories" and "such rate of entered employment (as so determined) for nonveterans" for "the job placement rate for nonveterans".

Subsec. (c)(4). Pub. L. 107–288, § 5(d)(1)(C), substituted "section 4212(d)" for "sections 4103A and 4104".

Subsec. (c)(5). Pub. L. 107–288, § 4(e)(1), struck out "(including the need for any changes in the formulas governing the appointment of disabled veterans' outreach program specialists under section 4103A(a)(2) of this title and the assignment of local veterans' employment representatives under section 4104(b) of this title and the allocation of funds for the support of such specialists and representatives)" after "further legislative action".

Subsec. (c)(6). Pub. L. 107–288, § 5(d)(1)(D), added par. (6).

1991—Pub. L. 102–83, § 5(a), renumbered section 2007 of this title as this section.

Subsec. (c)(3) to (5). Pub. L. 102–83, § 5(c)(1), substituted "4106" for "2006" in par. (3), "4103A and 4104" for "2003A and 2004" in par. (4), and "4102A(b)" for "2002A(b)", "4103A(a)(2)" for "2003A(a)(2)", and "4104(b)" for "2004(b)" in par. (5).

1988—Subsecs. (a), (b). Pub. L. 100–323, § 15(a)(2), struck out "of Labor" after "Secretary" in four places.

Subsec. (c). Pub. L. 100–323, § 2(d), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service. The report shall also include any determination by the Secretary under section 2004, 2006, or 2007(a) of this title and a statement of the reasons for such determination. The report shall also include a report on activities carried out under section 2003A of this title."

1982—Subsec. (c). Pub. L. 97–306 inserted provision that the report shall also include a report on activities carried out under section 2003A of this title.

1980—Subsec. (a)(1). Pub. L. 96–466, § 507(1), substituted ''veterans of the Vietnam era and disabled veterans'' for ''those veterans who have been recently discharged or released from active duty''.

Subsec. (c). Pub. L. 96–466, § 507(2), substituted provisions that the report include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service for provisions that the report include, by State, the number of recently discharged or released eligible veterans, veterans with service-connected disabilities, other eligible veterans, and eligible persons who requested assistance through the public employment service and, of these, the number placed in suitable employment or job training opportunities or who were otherwise assisted, with separate reference to occupational training and public service employment under appropriate Federal law.

1977—Subsec. (c). Pub. L. 95–202 directed that ''2004'' be substituted for ''2001''. Since subsec. (c) already contained a reference to ''2004'' not ''2001'', the amendment has been carried as a reenactment of subsec. (c) without change.

1976—Subsec. (a)(1). Pub. L. 94–502, § 604(1), substituted ''such veteran's and eligible person's'' for ''his''.

Subsec. (c). Pub. L. 94–502, § 604(2), (3), substituted ''occupational training and public service employment'' for ''occupational training'' and ''section 2004, 2006, or 2007(a)'' for ''section 2004 or 2006''.

1974—Subsec. (a)(1). Pub. L. 93–508, § 401(f)(1), substituted ''active duty and each eligible person'' for ''active duty''.

Subsec. (b). Pub. L. 93–508, § 401(f)(2), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c). Pub. L. 93–508, § 401(f)(2), (3), redesignated former subsec. (b) as (c) and substituted ''other eligible veterans, and eligible persons'' for ''and other eligible veterans''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 4(a)(3)(B) of Pub. L. 107–288 effective Nov. 7, 2002, and applicable for program and fiscal years under this chapter beginning on or after such date, see section 4(a)(4) of Pub. L. 107–288, set out as a note under section 4102A of this title.

Pub. L. 107–288, § 5(d)(2), Nov. 7, 2002, 116 Stat. 2046, provided that: ''The amendments made by paragraph (1) [amending this section] shall apply to reports for program years beginning on or after July 1, 2003.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

PUBLICATION OF LABOR-MARKET STATISTICS RELATING TO VETERANS WHO SERVED IN VIETNAM THEATRE OF OPERATIONS

Section 513 of Pub. L. 96–466 provided that:

''(a) When the Commissioner of the Bureau of Labor Statistics publishes annual labor-market statistics relating specifically to veterans who served in the Armed Forces during the Vietnam era, the Commissioner shall also publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations. When the Commissioner of the Bureau of Labor Statistics publishes labor-market statistics which relate specifically to veterans who served in the Armed Forces during the Vietnam era in addition to those statistics published on an annual basis to which the preceding sentence applies, the Commissioner shall also, if feasible, publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations.

''(b) For the purposes of this section, veterans who during the Vietnam era served in Vietnam, in air missions over Vietnam, or in naval missions in the waters adjacent to Vietnam shall be considered to be veterans who served in the Vietnam theatre of operations.''

Section 802(e) of Pub. L. 96–466 provided in part that the provisions of section 513 shall become effective on Oct. 1, 1980.

§ 4108. Cooperation and coordination

(a) In carrying out the Secretary's responsibilities under this chapter, the Secretary shall from time to time consult with the Secretary of Veterans Affairs and keep the Secretary of Veterans Affairs fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Department of Veterans Affairs.

(b) The Secretary of Veterans Affairs shall provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the areas served by such offices that offer a program of job training which has been approved by the Secretary of Veterans Affairs under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note).

(Added Pub. L. 92–540, title V, § 502(a), Oct. 24, 1972, 86 Stat. 1097, § 2008; amended Pub. L. 94–502, title VI, § 606(4), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 100–323, §§ 6(b)(1), (2)(A), 15(a)(2), May 20, 1988, 102 Stat. 564, 574; Pub. L. 101–237, title IV, § 423(b)(8), Dec. 18, 1989, 103 Stat. 2093; renumbered § 4108, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 7 of the Veterans' Job Training Act, referred to in subsec. (b), is section 7 of Pub. L. 98–77, which is set out as a note under section 1721 of Title 29, Labor.

PRIOR PROVISIONS

Prior section 4108, added Pub. L. 93–82, title II, § 204(a), Aug. 2, 1973, 87 Stat. 190; amended Pub. L. 94–123, § 5(e), Oct. 22, 1975, 89 Stat. 675; Pub. L. 94–581, title I, § 110(7), title II, §§ 205(f), 209(a)(1), (2), (c)(4), 210(c)(5), Oct. 21, 1976, 90 Stat. 2849, 2859, 2860, 2862, 2864;

Pub. L. 96–22, title V, § 501, June 13, 1979, 93 Stat. 64; Pub. L. 96–330, title I, § 113(a), Aug. 26, 1980, 94 Stat. 1038; Pub. L. 97–295, § 4(83), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 101–237, title II, § 206(a), Dec. 18, 1989, 103 Stat. 2067, related to personnel administration, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See sections 7402, 7421, 7423, and 7424 of this title.

Another prior section 4108, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1246; Pub. L. 86–568, title I, § 114(g), July 1, 1960, 74 Stat. 301; Pub. L. 87–574, § 3, Aug. 6, 1962, 76 Stat. 308; Pub. L. 87–793, § 803(a), Oct. 11, 1962, 76 Stat. 860, related to administration, prior to repeal by section 204(a) of Pub. L. 93–82.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 2008 of this title as this section.

1989—Pub. L. 101–237 substituted ''Secretary of Veterans Affairs'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

1988—Pub. L. 100–323, § 6(b)(2)(A), struck out ''with the Veterans' Administration'' after ''Cooperation and coordination'' in section catchline.

Subsec. (a). Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''Secretary''.

Pub. L. 100–323, § 6(b)(1)(A), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 100–323, § 6(b)(1)(B), added subsec. (b).

1976—Pub. L. 94–502 substituted ''the Secretary's'' for ''his'' and ''the Administrator fully advised'' for ''him fully advised''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 6(b)(1), (2)(A) of Pub. L. 100–323 effective on 60th day after May 20, 1988, and amendment by section 15(a)(2) of Pub. L. 100–323 effective May 20, 1988, see section 16(a), (b)(2) of Pub. L. 100–323, set out as a note under section 3104 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

§ 4109. National Veterans' Employment and Training Services Institute

(a) In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, intensive services, placement, job-search, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Services Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, Directors for Veterans' Employment and Training, and Assistant Directors for Veterans' Employment and Training, Regional Administrators for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, intensive services, placement, or related services to veterans as the Secretary considers appropriate, including travel expenses and per diem for attendance at the Institute.

(b) In implementing this section, the Secretary shall, as the Secretary considers appropriate, provide, out of program funds designated for the Institute, training for Veterans' Employment and Training Service personnel, including travel expenses and per diem to attend the Institute.

(c)(1) Nothing in this section shall be construed as preventing the Institute to enter into contracts or agreements with departments or agencies of the United States or of a State, or with other organizations, to carry out training of personnel of such departments, agencies, or organizations in the provision of services referred to in subsection (a).

(2) All proceeds collected by the Institute under a contract or agreement referred to in paragraph (1) shall be applied to the applicable appropriation.

(Added Pub. L. 97–306, title III, § 308(a), Oct. 14, 1982, 96 Stat. 1440, § 2009; amended Pub. L. 100–323, § 8(a), May 20, 1988, 102 Stat. 566; renumbered § 4109, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 107–288, § 5(a)(1)(F), (e), Nov. 7, 2002, 116 Stat. 2044, 2046.)

PRIOR PROVISIONS

Prior section 4109, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1246; Pub. L. 93–82, title II, § 205(a), Aug. 2, 1973, 87 Stat. 192; Pub. L. 96–330, title I, § 114, Aug. 26, 1980, 94 Stat. 1039; Pub. L. 96–385, title V, § 508(b), Oct. 7, 1980, 94 Stat. 1538; Pub. L. 97–72, title IV, § 402(a), Nov. 3, 1981, 95 Stat. 1062; Pub. L. 97–295, § 4(84), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 99–272, title XV, § 15204(b), Apr. 7, 1986, 100 Stat. 335; Pub. L. 99–509, title VII, § 7003(a), Oct. 21, 1986, 100 Stat. 1949, related to retirement rights, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7426 of this title.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–288, § 5(a)(1)(F), substituted ''intensive services,'' for ''counseling,'' in two places.

Subsec. (c). Pub. L. 107–288, § 5(e), added subsec. (c).

1991—Pub. L. 102–83 renumbered section 2009 of this title as this section.

1988—Pub. L. 100–323 amended section generally, substituting provisions relating to a National Veterans' Employment and Training Services Institute for provisions relating to national veterans' employment and training programs.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–323 effective on 60th day after May 20, 1988, see section 16(b)(2) of Pub. L. 100–323, set out as a note under section 3104 of this title.

§ 4110. Advisory Committee on Veterans Employment and Training

(a)(1) There is hereby established within the Department of Labor an advisory committee to be known as the Advisory Committee on Veterans Employment and Training.

(2) The advisory committee shall—

(A) assess the employment and training needs of veterans;

(B) determine the extent to which the programs and activities of the Department of Labor are meeting such needs; and

(C) carry out such other activities that are necessary to make the reports and recommendations referred to in subsection (f) of this section.

(b) The Secretary of Labor shall, on a regular basis, consult with and seek the advice of the

advisory committee with respect to the matters referred to in subsection (a)(2) of this section.

(c)(1) The Secretary of Labor shall appoint at least 12, but no more than 18, individuals to serve as members of the advisory committee consisting of—

(A) representatives nominated by veterans' organizations that have a national employment program; and

(B) not more than 6 individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.

(2) A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) The following, or their representatives, shall be ex officio, nonvoting members of the advisory committee:

(1) The Secretary of Veterans Affairs.

(2) The Secretary of Defense.

(3) The Secretary of Health and Human Services.

(4) The Secretary of Education.

(5) The Director of the Office of Personnel Management.

(6) The Assistant Secretary of Labor for Veterans Employment and Training.

(7) The Assistant Secretary of Labor for Employment and Training.

(8) The Chairman of the Equal Employment Opportunity Commission.

(9) The Administrator of the Small Business Administration.

(10) The Postmaster General.

(11) The Director of the United States Employment Service.

(12) Representatives of—

(A) other Federal departments and agencies requesting a representative on the advisory committee; and

(B) nationally based organizations with a significant involvement in veterans employment and training programs, as determined necessary and appropriate by the Secretary of Labor.

(e)(1) The advisory committee shall meet at least quarterly.

(2) The Secretary of Labor shall appoint the chairman of the advisory committee who shall serve in that position for no more than 2 consecutive years.

(3)(A) Members of the advisory committee shall serve without compensation.

(B) Members of the advisory committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of the responsibilities of the advisory committee.

(4) The Secretary of Labor shall provide staff and administrative support to the advisory committee through the Veterans Employment and Training Service.

(f)(1) Not later than July 1 of each year, the advisory committee shall submit to the Secretary of Labor a report on the employment and training needs of veterans. Each such report shall contain—

(A) an assessment of the employment and training needs of veterans;

(B) an evaluation of the extent to which the programs and activities of the Department of Labor are meeting such needs; and

(C) any recommendations for legislation, administrative action, and other action that the advisory committee considers appropriate.

(2) In addition to the annual reports made under paragraph (1), the advisory committee may make recommendations to the Secretary of Labor with respect to the employment and training needs of veterans at such times and in such manner as the advisory committee determines appropriate.

(g) Within 60 days after receiving each annual report referred to in subsection (f)(1), the Secretary of Labor shall transmit to Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.

(h) The advisory committee shall continue until terminated by law.

(Added Pub. L. 97–306, title III, § 308(a), Oct. 14, 1982, 96 Stat. 1441, § 2010; amended Pub. L. 100–323, §§ 10, 15(a)(2), (3), (b)(1), May 20, 1988, 102 Stat. 566, 574; Pub. L. 101–237, title IV, § 423(b)(8)(A), Dec. 18, 1989, 103 Stat. 2093; Pub. L. 102–16, § 8(a), Mar. 22, 1991, 105 Stat. 52; renumbered § 4110 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–568, title V, § 504, Oct. 29, 1992, 106 Stat. 4340; Pub. L. 103–446, title XII, § 1201(a)(5), (g)(3), (i)(7), Nov. 2, 1994, 108 Stat. 4682, 4687, 4688.)

PRIOR PROVISIONS

Prior section 4110, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1246; Pub. L. 88–207, Dec. 17, 1963, 77 Stat. 402; Pub. L. 98–160, title II, § 205, Nov. 21, 1983, 97 Stat. 1001; Pub. L. 99–576, title VII, § 701(88), Oct. 28, 1986, 100 Stat. 3299, related to disciplinary boards, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7464 of this title.

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103–446, § 1201(g)(3), substituted "shall appoint" for "shall, within 90 days after the date of the enactment of this section, appoint".

Subsec. (d)(9). Pub. L. 103–446, § 1201(a)(5), substituted "Administrator of the Small Business Administration" for "Secretary of the Small Business Administration".

Subsec. (e)(3)(B). Pub. L. 103–446, § 1201(i)(7), struck out ", United States Code," after "title 5" and substituted "the advisory committee" for "the Board".

1992—Subsec. (c)(1)(A). Pub. L. 102–568 struck out "are chartered by Federal law and" after "that".

1991—Pub. L. 102–83, § 5(a), renumbered section 2010 of this title as this section.

Pub. L. 102–16 amended section generally, substituting present catchline and text consisting of subsecs. (a) to (h) for former catchline which read "Secretary of Labor's Committee on Veterans' Employment" and former text consisting of subsecs. (a) to (c).

Subsec. (d)(9). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1989—Subsec. (b)(1)(A). Pub. L. 101–237 substituted "Secretary of Veterans Affairs" for "Administrator".

1988—Subsec. (b). Pub. L. 100–323, § 15(b)(1), inserted "and Training" after "for Veterans' Employment".

Pub. L. 100–323, § 15(a)(3), substituted "Notwithstanding section 2002A(b) of this title, the" for "The".

Pub. L. 100–323, § 15(a)(2), struck out ''of Labor'' after ''Secretary'' in first sentence.

Subsec. (b)(1)(D) to (I). Pub. L. 100–323, § 10, added subpars. (D), (H), and (I) and redesignated former subpars. (D) to (F) as (E) to (G), respectively.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 10 of Pub. L. 100–323 effective on 60th day after May 20, 1988, and amendment by section 15(a)(2), (3), (b)(1) of Pub. L. 100–323 effective May 20, 1988, see section 16(b)(2) of Pub. L. 100–323, set out as a note under section 3104 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (g) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 125 of House Document No. 103–7.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 4110A. Special unemployment study

(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:

(A) Special disabled veterans.

(B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

(C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

(D) Veterans who served on active duty after the Vietnam era.

(E) Veterans discharged or released from active duty within four years of the applicable study.

(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

(b) The Secretary shall promptly submit to Congress a report on the results of each study under subsection (a).

(Added Pub. L. 100–323, § 9(a), May 20, 1988, 102 Stat. 566, § 2010A; renumbered § 4110A, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 103–446, title VII, § 701(c), Nov. 2, 1994, 108 Stat. 4674; Pub. L. 105–368, title X, § 1005(b)(14), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–368, § 1005(b)(14)(B), redesignated par. (3) as subsec. (b).

Subsec. (b). Pub. L. 105–368 redesignated subsec. (a)(3) as (b), substituted ''subsection (a)'' for ''paragraph (1)'', and struck out former subsec. (b) which read as follows: ''The first study under this section shall be completed not later than 180 days after the date of the enactment of this section.''

1994—Subsec. (a). Pub. L. 103–446 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.''

1991—Pub. L. 102–83 renumbered section 2010A of this title as this section.

EFFECTIVE DATE

Section effective on 60th day after May 20, 1988, see section 16(b)(2) of Pub. L. 100–323, set out as an Effective Date of 1988 Amendment note under section 3104 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (b) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 125 of House Document No. 103–7.

§ 4110B. Coordination and nonduplication

In carrying out this chapter, the Secretary shall require that an appropriate administrative entity in each State enter into an agreement with the Secretary regarding the implementation of this Act that includes the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998.

(Added Pub. L. 105–220, title III, § 322, Aug. 7, 1998, 112 Stat. 1087.)

REFERENCES IN TEXT

This Act, referred to in text, probably means Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998, which enacted this section. Section 112(b) of the Act is classified to section 2822(b) of Title 29, Labor. For complete classification of Pub. L. 105–220 to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

[§ 4111. Repealed. Pub. L. 107–95, § 5(e)(3), Dec. 21, 2001, 115 Stat. 918]

Section, added Pub. L. 106–117, title IX, § 901(a), Nov. 30, 1999, 113 Stat. 1586, related to homeless veterans' reintegration programs.

PRIOR PROVISIONS

Prior section 4111, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 87–793, § 804, Oct. 11, 1962, 76 Stat. 861; Pub. L. 89–785, title I, § 108, Nov. 7, 1966, 80 Stat. 1370; Pub. L. 98–160, title II, § 206, Nov. 21, 1983, 97 Stat. 1001, related to appointment of additional employees, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7408 of this title.

§ 4112. Performance incentive awards for quality employment, training, and placement services

(a) CRITERIA FOR PERFORMANCE INCENTIVE AWARDS.—(1) For purposes of carrying out a program of performance incentive awards under section 4102A(c)(2)(A)(i)(III) of this title, the Secretary, acting through the Assistant Secretary of Labor for Veterans' Employment and Training, shall establish criteria for performance incentive awards programs to be administered by States to—

(A) encourage the improvement and modernization of employment, training, and placement services provided under this chapter; and

(B) recognize eligible employees for excellence in the provision of such services or for having made demonstrable improvements in the provision of such services.

(2) The Secretary shall establish such criteria in consultation with representatives of States, political subdivisions of States, and other providers of employment, training, and placement services under the Workforce Investment Act of 1998 consistent with the performance measures established under section 4102A(b)(7) of this title.

(b) FORM OF AWARDS.—Under the criteria established by the Secretary for performance incentive awards to be administered by States, an award under such criteria may be a cash award or such other nonfinancial awards as the Secretary may specify.

(c) RELATIONSHIP OF AWARD TO GRANT PROGRAM AND EMPLOYEE COMPENSATION.—Performance incentive cash awards under this section—

(1) shall be made from amounts allocated from the grant or contract amount for a State for a program year under section 4102A(c)(7) of this title; and

(2) is in addition to the regular pay of the recipient.

(d) ELIGIBLE EMPLOYEE DEFINED.—In this section, the term ''eligible employee'' means any of the following:

(1) A disabled veterans' outreach program specialist.

(2) A local veterans' employment representative.

(3) An individual providing employment, training, and placement services to veterans under the Workforce Investment Act of 1998 or through an employment service delivery system (as defined in section 4101(7) of this title).

(Added Pub. L. 107–288, § 3(a), Nov. 7, 2002, 116 Stat. 2037.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsecs. (a)(2) and (d)(3), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

PRIOR PROVISIONS

A prior section 4112, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 89–785, title I, § 109(a), Nov. 7, 1966, 80 Stat. 1370; Pub. L. 93–82, title II, § 205(b), Aug. 2, 1973, 87 Stat. 192; Pub. L. 94–581, title I, § 110(8), title II, §§ 209(b)(3), 210(c)(6), Oct. 21, 1976, 90 Stat. 2849, 2861, 2864; Pub. L. 96–151, title III, § 305, Dec. 20, 1979, 93 Stat. 1096; Pub. L. 96–330, title I, § 115, Aug. 26, 1980, 94 Stat. 1039; Pub. L. 98–223, title II, § 209, Mar. 2, 1984, 98 Stat. 44; Pub. L. 100–322, title II, § 224, May 20, 1988, 102 Stat. 532, related to special medical advisory group and other advisory bodies, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See sections 7312 and 7313 of this title.

§ 4113. Outstationing of Transition Assistance Program personnel

(a) STATIONING OF TAP PERSONNEL AT OVERSEAS MILITARY INSTALLATIONS.—(1) The Secretary—

(A) shall station employees of the Veterans' Employment and Training Service, or contractors under subsection (c), at each veterans assistance office described in paragraph (2); and

(B) may station such employees or contractors at such other military installations outside the United States as the Secretary, after consultation with the Secretary of Defense, determines to be appropriate or desirable to carry out the purposes of this chapter.

(2) Veterans assistance offices referred to in paragraph (1)(A) are those offices that are established by the Secretary of Veterans Affairs on military installations pursuant to the second sentence of section 7723(a) of this title.

(b) FUNCTIONS.—Employees (or contractors) stationed at military installations pursuant to subsection (a) shall provide, in person, counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the Armed Forces who are being separated from active duty, and the spouses of such members, under the Transition Assistance Program and Disabled Transition Assistance Program established in section 1144 of title 10.

(c) AUTHORITY TO CONTRACT WITH PRIVATE ENTITIES.—The Secretary, consistent with section 1144 of title 10, may enter into contracts with public or private entities to provide, in person, some or all of the counseling, assistance, information and services under the Transition Assistance Program required under subsection (a).

(Added Pub. L. 108–183, title III, § 309(a)(1), Dec. 16, 2003, 117 Stat. 2663.)

PRIOR PROVISIONS

Prior sections 4113 to 4119 were repealed by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210.

Section 4113, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 89–785, title I, § 110, Nov. 7, 1966, 80 Stat. 1371; Pub. L. 94–581, title I, § 110(9), title II, § 209(a)(5), (c)(5), Oct. 21, 1976, 90 Stat. 2849, 2860, 2862, related to travel expenses of employees. See section 7424 of this title.

Section 4114, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1247; Pub. L. 87–574, § 4(2), Aug. 6, 1962, 76 Stat. 309; Pub. L. 89–785, title I, § 111(a)–(c), Nov. 7, 1966, 80 Stat. 1371; Pub. L. 91–496, §§ 1, 3, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93–82, title II, § 206, Aug. 2, 1973, 87 Stat. 192; Pub. L. 94–581, title I, §§ 109, 110(10), title II, §§ 205(g), 209(a)(6), (c)(6), 210(c)(7), Oct. 21, 1976, 90 Stat. 2848, 2849, 2859, 2860, 2862, 2864; Pub. L. 95–201, § 4(a)(2), Nov. 23, 1977, 91 Stat. 1430; Pub. L. 96–330, title I, § 116(b), Aug. 26, 1980, 94 Stat. 1039; Pub. L. 97–295, § 4(85), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 99–166, title II, § 203, Dec. 3, 1985, 99 Stat. 950; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–576, title II, § 214, Oct. 28, 1986, 100 Stat. 3258; Pub. L. 100–322, title II, § 223, May 20, 1988, 102 Stat. 531; Pub. L. 100–687, div. B, title XV, § 1503(a)(2), Nov. 18, 1988, 102 Stat. 4133; Pub. L. 101–366, title II, § 203, Aug. 15, 1990, 104 Stat. 439, related to temporary full-time, part-time, and without compensation appointments and residencies or internships. See sections 7405 to 7407 of this title.

Section 4115, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1248, related to regulations. See section 7304 of this title.

Section 4116, added Pub. L. 89–311, § 6(a), Oct. 31, 1965, 79 Stat. 1156; amended Pub. L. 89–506, § 5(b), July 18, 1966, 80 Stat. 307; Pub. L. 93–82, title II, § 207, Aug. 2, 1973, 87 Stat. 193; Pub. L. 94–581, title I, § 110(11), title II, §§ 209(a)(7), 210(c)(8), Oct. 21, 1976, 90 Stat. 2849, 2861, 2864; Pub. L. 100–322, title II, § 203(a)(1), May 20, 1988, 102 Stat. 509, related to defense of certain malpractice and negligence suits. See section 7316 of this title.

Section 4117, added Pub. L. 89–785, title I, § 112(a), Nov. 7, 1966, 80 Stat. 1371; amended Pub. L. 93–82, title II,

§ 208, Aug. 2, 1973, 87 Stat. 194; Pub. L. 94–581, title I, § 110(12), title II, § 209(a)(1), (8), Oct. 21, 1976, 90 Stat. 2849, 2860, 2861, related to contracts for scarce medical specialist services. See section 7409 of this title.

Section 4118, added Pub. L. 94–123, § 2(d)(1), Oct. 22, 1975, 89 Stat. 670; amended Pub. L. 95–201, § 3(a), Nov. 23, 1977, 91 Stat. 1429; Pub. L. 96–330, title I, §§ 102(a)(1), (b)–(d), 103(a), 104(a), title II, § 202, Aug. 26, 1980, 94 Stat. 1030, 1031, 1034, 1035, 1047; Pub. L. 97–258, § 3(k)(6), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 97–295, § 4(86), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 99–576, title II, § 231(a), Oct. 28, 1986, 100 Stat. 3263; Pub. L. 100–238, title I, § 126, Jan. 8, 1988, 101 Stat. 1757, related to special pay for physicians and dentists. See sections 7431 to 7440 of this title.

Section 4119, added Pub. L. 96–330, title I, § 116(a)(1), Aug. 26, 1980, 94 Stat. 1039, related to relationship between former subchapter I of chapter 73 of this title and other provisions of law. See section 7425 of this title.

Prior section 4120 was renumbered section 7458 of this title.

Prior sections 4121 to 4124 were repealed by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210.

Section 4121, added Pub. L. 92–541, § 3(a), Oct. 24, 1972, 86 Stat. 1107; amended Pub. L. 94–581, title II, § 210(c)(9), Oct. 21, 1976, 90 Stat. 2864; Pub. L. 99–576, title II, § 212(a), (b), Oct. 28, 1986, 100 Stat. 3257, related to designation of Regional Medical Education Centers. See section 7471 of this title.

Section 4122, added Pub. L. 92–541, § 3(a), Oct. 24, 1972, 86 Stat. 1107; amended Pub. L. 94–581, title II, §§ 209(c)(7), 210(c)(10), Oct. 21, 1976, 90 Stat. 2862, 2864, related to supervision and staffing of Centers. See section 7472 of this title.

Section 4123, added Pub. L. 92–541, § 3(a), Oct. 24, 1972, 86 Stat. 1107; amended Pub. L. 94–581, title I, § 113, Oct. 21, 1976, 90 Stat. 2852; Pub. L. 99–576, title II, § 212(c), Oct. 28, 1986, 100 Stat. 3257, related to personnel eligible for training. See section 7473 of this title.

Section 4124, added Pub. L. 92–541, § 3(a), Oct. 24, 1972, 86 Stat. 1108, related to consultation with special medical advisory group. See section 7474 of this title.

Prior sections 4131 to 4134 were renumbered sections 7331 to 7334 of this title, respectively.

Prior section 4141 was renumbered section 7451 of this title.

Another prior section 4141, added Pub. L. 96–330, title II, § 201(a)(1), Aug. 26, 1980, 94 Stat. 1041, related to the establishment, purpose and duration of Veterans' Administration Health Professional Scholarship Program, prior to repeal by Pub. L. 100–322, title II, § 216(a), May 20, 1988, 102 Stat. 517, with the provisions to remain effective with respect to scholarships awarded. For similar provisions, see chapter 76 (§ 7601 et seq.) of this title.

Prior section 4142 was renumbered section 7452 of this title.

Another prior section 4142 and prior sections 4143 to 4146 were repealed by Pub. L. 100–322, title II, § 216(a), May 20, 1988, 102 Stat. 517, with the provisions to remain effective with respect to scholarships awarded.

Section 4142, added Pub. L. 96–330, title II, § 201(a)(1), Aug. 26, 1980, 94 Stat. 1041; amended Pub. L. 97–251, § 3(a), Sept. 8, 1982, 96 Stat. 713; Pub. L. 97–258, § 3(k)(7), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 97–375, title II, § 216, Dec. 21, 1982, 96 Stat. 1827; Pub. L. 98–160, title VII, § 702(18), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99–576, title II, § 213, Oct. 28, 1986, 100 Stat. 3257, related to eligibility, application, and written contracts for program.

Section 4143, added Pub. L. 96–330, title II, § 201(a)(1), Aug. 26, 1980, 94 Stat. 1044; amended Pub. L. 97–251, § 3(b), Sept. 8, 1982, 96 Stat. 714, related to obligated service.

Section 4144, added Pub. L. 96–330, title II, § 201(a)(1), Aug. 26, 1980, 94 Stat. 1045; amended Pub. L. 97–251, § 3(c), Sept. 8, 1982, 96 Stat. 715, related to liability for breach of contracts and waiver, suspension, discharge, etc., thereof.

Section 4145, added Pub. L. 96–330, title II, § 201(a)(1), Aug. 26, 1980, 94 Stat. 1047, related to exemption of scholarship payments from taxation.

Section 4146, added Pub. L. 96–330, title II, § 201(a)(1), Aug. 26, 1980, 94 Stat. 1047, provided that authority of Administrator to make payments under former subchapter IV of chapter 73 of this title was subject to availability of appropriations for such purposes.

For provisions similar to former sections 4142 to 4146 of this title, see chapter 76 (§ 7601 et seq.) of this title.

Prior sections 4151 and 4152 were repealed by Pub. L. 102–40, title IV, § 401(a)(2)(A), May 7, 1991, 105 Stat. 210.

Section 4151, added Pub. L. 99–166, title II, § 204(a)(1), Dec. 3, 1985, 99 Stat. 950, related to quality-assurance program. See section 7311 of this title.

Section 4152, added Pub. L. 99–166, title II, § 204(a)(1), Dec. 3, 1985, 99 Stat. 951, related to quality-assurance reports. See section 7311 of this title.

Prior sections 4161 to 4168 were renumbered sections 7361 to 7368 of this title, respectively.

DEADLINE FOR IMPLEMENTATION

Pub. L. 108–183, title III, § 309(b), Dec. 16, 2003, 117 Stat. 2663, provided that: ''Not later than 90 days after the date of the enactment of this Act [Dec. 16, 2003], the Secretary of Labor shall implement section 4113 of title 38, United States Code, as added by subsection (a), and shall have employees of the Veterans' Employment and Training Service, or contractors, to carry out that section at the military installations involved by such date.''

CHAPTER 42—EMPLOYMENT AND TRAINING OF VETERANS

Sec.
4211. Definitions.
4212. Veterans' employment emphasis under Federal contracts.
4213. Eligibility requirements for veterans under Federal employment and training programs.
4214. Employment within the Federal Government.
4215. Priority of service for veterans in Department of Labor job training programs.

AMENDMENTS

2002—Pub. L. 107–288, § 2(a)(2), Nov. 7, 2002, 116 Stat. 2034, added item 4215.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 2011 to 2014 as 4211 to 4214, respectively.

Pub. L. 102–16, § 9(c)(1), Mar. 22, 1991, 105 Stat. 55, struck out ''DISABLED AND VIETNAM ERA'' before ''VETERANS'' in chapter heading.

1980—Pub. L. 96–466, title VIII, § 801(k)(2)(B), Oct. 17, 1980, 94 Stat. 2217, substituted ''Federal employment and'' for ''certain Federal manpower'' in item 2013.

1974—Pub. L. 93–508, title IV, § 403(b), Dec. 3, 1974, 88 Stat. 1594, added item 2014.

§ 4211. Definitions

As used in this chapter—

(1) The term ''special disabled veteran'' means—

(A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary for a disability (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined under section 3106 of this title to have a serious employment handicap; or

(B) a person who was discharged or released from active duty because of service-connected disability.

(2) The term ''veteran of the Vietnam era'' means an eligible veteran any part of whose ac-

tive military, naval, or air service was during the Vietnam era.

(3) The term ''disabled veteran'' means (A) a veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Secretary, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term ''eligible veteran'' means a person who—

(A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;

(B) was discharged or released from active duty because of a service-connected disability; or

(C) as a member of a reserve component under an order to active duty pursuant to section 12301(a), (d), or (g), 12302, or 12304 of title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge.

(5) The term ''department or agency'' means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5 and the United States Postal Service and the Postal Rate Commission, and the term ''department, agency, or instrumentality in the executive branch'' includes the United States Postal Service and the Postal Rate Commission.

(6) The term ''recently separated veteran'' means any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty.

(Added Pub. L. 92–540, title V, § 503(a), Oct. 24, 1972, 86 Stat. 1097, § 2011; amended Pub. L. 94–502, title VI, § 607(1), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 96–466, title V, § 508, Oct. 17, 1980, 94 Stat. 2206; Pub. L. 97–306, title III, § 309, Oct. 14, 1982, 96 Stat. 1441; Pub. L. 98–223, title II, § 206, Mar. 2, 1984, 98 Stat. 43; Pub. L. 101–237, title IV, § 407(a)(2), Dec. 18, 1989, 103 Stat. 2082; Pub. L. 102–16, § 1, Mar. 22, 1991, 105 Stat. 48; Pub. L. 102–54, § 14(c)(9), June 13, 1991, 105 Stat. 285; renumbered § 4211 and amended Pub. L. 102–83, §§ 4(a)(1), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 102–127, § 5, Oct. 10, 1991, 105 Stat. 622; Pub. L. 102–568, title V, § 502, Oct. 29, 1992, 106 Stat. 4340; Pub. L. 104–106, div. A, title XV, § 1501(e)(2)(D), Feb. 10, 1996, 110 Stat. 501; Pub. L. 106–419, title III, § 322(c), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107–288, § 2(b)(2)(D), Nov. 7, 2002, 116 Stat. 2036.)

AMENDMENTS

2002—Par. (6). Pub. L. 107–288 substituted ''three-year period'' for ''one-year period''.

2000—Par. (6). Pub. L. 106–419 added par. (6).

1996—Par. (4)(C). Pub. L. 104–106 substituted ''section 12301(a), (d), or (g), 12302, or 12304 of title 10'' for ''section 672(a), (d), or (g), 673, or 673b of title 10''.

1992—Par. (2). Pub. L. 102–568 substituted ''The term'' for ''(A) Subject to subparagraph (B) of this paragraph, the term'' and struck out subpar. (B) which read as follows: ''No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1994, except for purposes of section 4214 of this title.''

1991—Pub. L. 102–83, § 5(a), renumbered section 2011 of this title as this section.

Par. (1)(A). Pub. L. 102–83, § 5(c)(1), substituted ''3106'' for ''1506'' in cl. (ii).

Pub. L. 102–83, § 4(a)(1), substituted ''laws administered by the Secretary'' for ''laws administered by the Veterans' Administration'' in introductory provisions.

Par. (2)(B). Pub. L. 102–83, § 5(c)(1), substituted ''4214'' for ''2014''.

Pub. L. 102–54 inserted comma before ''except for purposes''.

Pub. L. 102–16 substituted ''1994'' for ''1991''.

Par. (3). Pub. L. 102–83, § 4(a)(1), substituted ''laws administered by the Secretary'' for ''laws administered by the Veterans' Administration''.

Par. (4). Pub. L. 102–127 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The term 'eligible veteran' means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.''

1989—Par. (2)(B). Pub. L. 101–237 inserted before period at end ''except for purposes of section 2014 of this title''.

1984—Par. (1). Pub. L. 98–223 expanded term ''special disabled veteran'' to include a veteran with a disability rated at 10 to 20 percent in the case of a veteran who has been determined under section 1506 of this title to have a serious employment handicap.

1982—Pars. (1), (3). Pub. L. 97–306, § 309(1), inserted ''(or who but for the receipt of military retired pay would be entitled to compensation)'' after ''compensation''.

Par. (5). Pub. L. 97–306, § 309(2), inserted provision that the United States Postal Service and the Postal Rate Commission are within the definition of ''department or agency'' and that the term ''department, agency, or instrumentality in the executive branch'' includes the United States Postal Service and the Postal Rate Commission.

1980—Pub. L. 96–466 added definitions for terms ''special disabled veteran'' and ''eligible veteran'', in provisions defining term ''veteran of the Vietnam era'' substituted reference to an eligible veteran any part of whose active service was during the Vietnam era with cut-off date of Dec. 31, 1991, for reference to a person who served on active duty for more than 180 days, any part of which occurred during the Vietnam era, and was discharged or released with other than a dishonorable discharge, or was discharged or released for a service-connected disability if any part of the active duty was performed during the Vietnam era, and who was discharged or released within the 48 months preceding the person's application for employment covered under this chapter, in the provisions defining term ''disabled veteran'' substituted reference to compensation under laws administered by the Veterans' Administration for reference to disability compensation under such laws for a disability rated at 30 per centum or more and reference to a service-connected disability for reference to a disability incurred or aggravated in the line of duty, and in provisions defining term ''department or agency'' substituted reference to any agency of the Federal Government or the District of Columbia, including any Executive agency defined in section 105 of title 5, for reference to any department or agency of the Federal Government or any federally owned corporation.

1976—Par. (2). Pub. L. 94–502 substituted ''the person's'' for ''his''.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 2(b)(3), Nov. 7, 2002, 116 Stat. 2036, provided that: ''The amendments made by this subsection [amending this section and section 4212 of this title] shall apply with respect to contracts entered into on or after the first day of the first month that begins

12 months after the date of the enactment of this Act [Nov. 7, 2002].''

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1989 AMENDMENT

Section 407(c) of Pub. L. 101–237 provided that: ''The amendments made by this section [amending this section and section 2014 [now 4214] of this title] shall take effect on January 1, 1990.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

§ 4212. Veterans' employment emphasis under Federal contracts

(a)(1) Any contract in the amount of $100,000 or more entered into by any department or agency of the United States for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States take affirmative action to employ and advance in employment qualified covered veterans. This section applies to any subcontract in the amount of $100,000 or more entered into by a prime contractor in carrying out any such contract.

(2) In addition to requiring affirmative action to employ such qualified covered veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the Secretary of Labor shall prescribe regulations requiring that—

(A) each such contractor for each such contract shall immediately list all of its employment openings with the appropriate employment service delivery system (as defined in section 4101(7) of this title), and may also list such openings with one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America's Job Bank (or any additional or subsequent national electronic job bank established by the Department of Labor), except that the contractor may exclude openings for executive and senior management positions and positions which are to be filled from within the contractor's organization and positions lasting three days or less;

(B) each such employment service delivery system shall give such qualified covered veterans priority in referral to such employment openings; and

(C) each such employment service delivery system shall provide a list of such employment openings to States, political subdivisions of States, or any private entities or organizations under contract to carry out employment, training, and placement services under chapter 41 of this title.

(3) In this section:

(A) The term ''covered veteran'' means any of the following veterans:

(i) Disabled veterans.

(ii) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized.

(iii) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209).

(iv) Recently separated veterans.

(B) The term ''qualified'', with respect to an employment position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.

(b) If any veteran covered by the first sentence of subsection (a) believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.

(c) The Secretary of Labor shall include as part of the annual report required by section 4107(c) of this title the number of complaints filed pursuant to subsection (b) of this section, the actions taken thereon and the resolutions thereof. Such report shall also include the number of contractors listing employment openings, the nature, types, and number of positions listed and the number of veterans receiving priority pursuant to subsection (a)(2)(B).

(d)(1) Each contractor to whom subsection (a) applies shall, in accordance with regulations which the Secretary of Labor shall prescribe, report at least annually to the Secretary of Labor on—

(A) the number of employees in the workforce of such contractor, by job category and hiring location, and the number of such employees, by job category and hiring location, who are qualified covered veterans;

(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are qualified covered veterans; and

(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.

(2) The Secretary of Labor shall ensure that the administration of the reporting requirement under paragraph (1) is coordinated with respect to any requirement for the contractor to make any other report to the Secretary of Labor.

(Added Pub. L. 92–540, title V, § 503(a), Oct. 24, 1972, 86 Stat. 1097, § 2012; amended Pub. L. 93–508,

title IV, § 402, Dec. 3, 1974, 88 Stat. 1593; Pub. L. 94–502, title VI, §§ 605, 607(2), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 95–520, § 6(a), Oct. 26, 1978, 92 Stat. 1821; Pub. L. 96–466, title V, § 509, title VIII, § 801(j), Oct. 17, 1980, 94 Stat. 2206, 2217; Pub. L. 97–306, title III, § 310(a), Oct. 14, 1982, 96 Stat. 1442; renumbered § 4212 and amended Pub. L. 102–83, §§ 4(b)(8), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 405, 406; Pub. L. 103–446, title VII, § 702(a), Nov. 2, 1994, 108 Stat. 4674; Pub. L. 105–339, §§ 7(a), 8, Oct. 31, 1998, 112 Stat. 3188, 3189; Pub. L. 106–419, title III, § 322(a), (b), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107–288, § 2(b)(1), (2)(A)–(C), Nov. 7, 2002, 116 Stat. 2034, 2035.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(2)(A), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Executive Order No. 12985, referred to in subsec. (a)(3)(A)(iii), is set out as a note preceding section 1121 of Title 10, Armed Forces.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–288, § 2(b)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Any contract in the amount of $25,000 or more entered into by any department or agency for the procurement of personal property and non-personal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified special disabled veterans, veterans of the Vietnam era, recently separated veterans, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized. The provisions of this section shall apply to any subcontract entered into by a prime contractor in carrying out any contract for the procurement of personal property and non-personal services (including construction) for the United States. In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall implement the provisions of this section by promulgating regulations which shall require that (1) each such contractor undertake in such contract to list immediately with the appropriate local employment service office all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less, and (2) each such local office shall give such veterans priority in referral to such employment openings.''

Subsec. (c). Pub. L. 107–288, § 2(b)(2)(A), struck out ''suitable'' before ''employment openings'' and substituted ''subsection (a)(2)(B)'' for ''subsection (a)(2) of this section''.

Subsec. (d)(1). Pub. L. 107–288, § 2(b)(2)(B)(i), struck out ''of this section'' after ''subsection (a)'' in introductory provisions.

Subsec. (d)(1)(A), (B). Pub. L. 107–288, § 2(b)(2)(B)(ii), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

''(A) the number of employees in the work force of such contractor, by job category and hiring location, who are special disabled veterans, veterans of the Vietnam era, recently separated veterans, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized;

''(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are special disabled veterans, veterans of the Vietnam era, recently separated veterans, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized; and''.

Subsec. (d)(2). Pub. L. 107–288, § 2(b)(2)(C), struck out ''of this subsection'' after ''paragraph (1)''.

2000—Subsec. (a). Pub. L. 106–419, § 322(a), inserted ''recently separated veterans,'' after ''veterans of the Vietnam era,'' in first sentence.

Subsec. (d)(1)(A), (B). Pub. L. 106–419, § 322(b), inserted ''recently separated veterans,'' after ''veterans of the Vietnam era,''.

1998—Subsec. (a). Pub. L. 105–339, § 7(a)(1), in first sentence, substituted ''$25,000'' for ''$10,000'' and ''special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized'' for ''special disabled veterans and veterans of the Vietnam era''.

Subsec. (b). Pub. L. 105–339, § 7(a)(2), substituted ''veteran covered by the first sentence of subsection (a)'' for ''special disabled veteran or veteran of the Vietnam era''.

Subsec. (d)(1)(A), (B). Pub. L. 105–339, § 7(a)(3), substituted ''special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized'' for ''veterans of the Vietnam era or special disabled veterans''.

Subsec. (d)(1)(C). Pub. L. 105–339, § 8, added subpar. (C).

1994—Subsec. (a)(1). Pub. L. 103–446 substituted ''all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less,'' for ''all of its suitable employment openings,''.

1991—Pub. L. 102–83, § 5(a), renumbered section 2012 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''4107(c)'' for ''2007(c)''.

Pub. L. 102–83, § 4(b)(8), substituted ''Secretary of Labor'' for ''Secretary''.

Subsec. (d). Pub. L. 102–83, § 4(b)(8), substituted ''Secretary of Labor'' for ''Secretary'' wherever appearing.

1982—Subsec. (d). Pub. L. 97–306 added subsec. (d).

1980—Subsec. (a). Pub. L. 96–466, § 801(j), inserted ''special'' after ''qualified'' and substituted ''regulations which shall require'' for ''regulations within 60 days after the date of enactment of this section, which regulations shall require''.

Subsec. (b). Pub. L. 96–466, § 509, among other changes, substituted reference to a special disabled veteran for reference to a disabled veteran, struck out provisions relating to the filing of a complaint by any veteran entitled to disability compensation who believed that a contractor had discriminated against such veteran because such veteran was a handicapped individual within the meaning of section 706(6) of title 29, and substituted provisions relating to the filing of a complaint with the Secretary of Labor for provisions relating to the filing of a complaint with the Veterans' Employment Service of the Department of Labor and prompt referral of the complaint to the Secretary.

1978—Subsec. (b). Pub. L. 95–520 authorized filing of a complaint by a veteran entitled to disability compensation under laws administered by the Veterans' Administration based on a contractor's discrimination against the veteran because the veteran is handicapped.

1976—Subsec. (b). Pub. L. 94–502, § 607(2), substituted ''the contractor's'' for ''his''.

Subsec. (c). Pub. L. 94–502, § 605, added subsec. (c).

1974—Subsec. (a). Pub. L. 93–508, § 402(1), (2), substituted ''Any contract in the amount of $10,000 or more entered into'' for ''Any contract entered into'', ''the party contracting with the United States shall take affirmative action to employ and advance in employment'' for ''in employing persons to carry out such contract, the party contracting with the United States

shall give special emphasis to the employment of'', and ''In addition to requiring affirmative action to employ such veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the President shall'' for ''The President shall''.

Subsec. (b). Pub. L. 93–508, § 402(3), substituted ''relating to the employment of veterans'' for ''relating to giving special emphasis in employment to veterans''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–288 applicable with respect to contracts entered into on or after the first day of the first month that begins 12 months after Nov. 7, 2002, see section 2(b)(3) of Pub. L. 107–288, set out as a note under section 4211 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 509 of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

Amendment by section 801(j) of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–508 effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

PRESCRIPTION OF REGULATIONS

Section 310(b) of Pub. L. 97–306 provided that: ''Within 90 days after the date of the enactment of this Act [Oct. 14, 1982], the Secretary of Labor shall prescribe regulations under subsection (d) of section 2012 [now 4212] of title 38, United States Code, as added by the amendment made by subsection (a).''

EX. ORD. NO. 11701. EMPLOYMENT OF VETERANS BY FEDERAL AGENCIES AND GOVERNMENT CONTRACTORS AND SUBCONTRACTORS

Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, provided:

On June 16, 1971, I issued Executive Order No. 11598 to facilitate the employment of returning veterans by requiring Federal agencies and Federal contractors and their subcontractors to list employment openings with the employment service systems. Section 503 of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (Public Law 92–540; 86 Stat. 1097) added a new section 2012 [now 4212] to Title 38 of the United States Code which, in effect, provides statutory authority to extend the program developed under that order with respect to Government contractors and their subcontractors.

NOW, THEREFORE, by virtue of the authority vested in me by section 301 of Title 3 of the United States Code and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of Labor shall issue rules and regulations requiring each department and agency of the executive branch of the Federal Government to list suitable employment openings with the appropriate office of the State Employment Service or the United States Employment Service. This section shall not be construed as requiring the employment of individuals referred by such office or as superseding any requirements of the Civil Service Laws. Rules, regulations, and orders to implement this section shall be developed in consultation with the Civil Service Commission.

SEC. 2. The Secretary of Labor is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority of the President under Section 2012 [now 4212] of Title 38 of the United States Code.

SEC. 3. The Secretary of Labor shall gather information on the effectiveness of the program established under this order and Section 2012 [now 4212] of Title 38 of the United States Code and of the extent to which the employment service system is fulfilling the employment needs of veterans. The Secretary of Labor shall, from time to time, report to the President concerning his evaluation of the effectiveness of this order along with his recommendations for further action which the Secretary believes to be appropriate.

SEC. 4. Appropriate departments and agencies shall, in consultation with the Secretary of Labor, issue such amendments or additions to procurement rules and regulations as may be necessary to carry out the purposes of this order and Section 2012 [now 4212] of Title 38 of the United States Code. Except as otherwise provided by law, all executive departments and agencies are directed to cooperate with the Secretary of Labor, to furnish the Secretary of Labor with such information and assistance as he may require in the performance of his functions under this order, and to comply with rules, regulations, and orders of the Secretary.

SEC. 5. Executive Order No. 11598 of June 16, 1971, is hereby superseded.

RICHARD NIXON.

§ 4213. Eligibility requirements for veterans under Federal employment and training programs

(a) Amounts and periods of time specified in subsection (b) shall be disregarded in determining eligibility under any of the following:

(1) Any public service employment program.

(2) Any emergency employment program.

(3) Any job training program assisted under the Economic Opportunity Act of 1964.

(4) Any employment or training program carried out under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

(5) Any other employment or training (or related) program financed in whole or in part with Federal funds.

(b) Subsection (a) applies with respect to the following amounts and periods of time:

(1) Any amount received as pay or allowances by any person while serving on active duty.

(2) Any period of time during which such person served on active duty.

(3) Any amount received under chapters 11, 13, 30, 31, 32, and 36 of this title by an eligible veteran.

(4) Any amount received by an eligible person under chapters 13 and 35 of this title.

(5) Any amount received by an eligible member under chapter 106 of title 10.

(Added Pub. L. 92–540, title V, § 503(a), Oct. 24, 1972, 86 Stat. 1098, § 2013; amended Pub. L. 96–466, title VIII, § 801(k)(1), (2)(A), Oct. 17, 1980, 94 Stat. 2217; Pub. L. 102–54, § 14(c)(10), June 13, 1991, 105 Stat. 285; renumbered § 4213, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title VII, § 702(b), Nov. 2, 1994, 108 Stat. 4675; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(29)(C), (f)(21)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–424, 2681–432; Pub. L. 106–419, title IV, § 404(a)(9), Nov. 1, 2000, 114 Stat. 1865.)

REFERENCES IN TEXT

The Economic Opportunity Act of 1964, referred to in subsec. (a)(3), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§ 2701 et seq.) of Title 42, The Public Health and Welfare, prior to repeal, except for titles VIII and X, by Pub. L. 97–35, title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§ 2991 et seq.) and X (§ 2996 et seq.) of chapter 34 of Title 42. For complete classification of this Act to the Code, see Tables.

The Workforce Investment Act of 1998, referred to in subsec. (a)(4), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

AMENDMENTS

2000—Pub. L. 106–419 amended text generally. Prior to amendment, text read as follows: "Any (1) amounts received as pay or allowances by any person while serving on active duty, (2) period of time during which such person served on such active duty, and (3) amounts received under chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran, any amounts received by an eligible person under chapters 13 and 35 of such title, and any amounts received by an eligible person under chapter 106 of title 10, shall be disregarded in determining eligibility under any public service employment program, any emergency employment program, any job training program assisted under the Economic Opportunity Act of 1964, any employment or training program carried out under title I of the Workforce Investment Act of 1998, or any other employment or training (or related) program financed in whole or in part with Federal funds."

1998—Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(21)(C)], struck out "the Job Training Partnership Act or" after "program carried out under".

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(29)(C)], substituted "program carried out under the Job Training Partnership Act or title I of the Workforce Investment Act of 1998," for "program assisted under the Job Training Partnership Act (29 U.S.C. 1501 et seq.),".

1994—Pub. L. 103–446, § 702(b)(3), substituted "eligibility under" for "the needs or qualifications of participants in".

Pub. L. 103–446, § 702(b)(2), which directed insertion of "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and", was executed by making the insertion after "chapters 13 and 35 of such title," to reflect the probable intent of Congress.

Pub. L. 103–446, § 702(b)(1), which directed substitution of "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran," for "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran and", was executed by making the substitution for "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran, and" to reflect the probable intent of Congress.

1991—Pub. L. 102–83 renumbered section 2013 of this title as this section.

Pub. L. 102–54 substituted "the Job Training Partnership Act (29 U.S.C. 1501 et seq.)" for "the Comprehensive Employment and Training Act".

1980—Pub. L. 96–466 substituted "Federal employment and" for "certain Federal manpower" in section catchline, and substituted "an eligible veteran" for "a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability" and "any employment or training program assisted under the Comprehensive Employment and Training Act, or any other employment or" for "any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower" in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 101(f) [title VIII, § 405(d)(29)(C)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(21)(C)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Section effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as an Effective Date of 1972 Amendment note under section 4101 of this title.

§ 4214. Employment within the Federal Government

(a)(1) The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a uniquely qualified recruiting source. It is, therefore, the policy of the United States and the purpose of this section to promote the maximum of employment and job advancement opportunities within the Federal Government for qualified covered veterans (as defined in paragraph (2)(B)) who are qualified for such employment and advancement.

(2) In this section:

(A) The term "agency" has the meaning given the term "department or agency" in section 4211(5) of this title.

(B) The term "qualified covered veteran" means a veteran described in section 4212(a)(3) of this title.

(b)(1) To further the policy stated in subsection (a) of this section, veterans referred to in paragraph (2) of this subsection shall be eligible, in accordance with regulations which the Office of Personnel Management shall prescribe, for veterans recruitment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that—

(A) such an appointment may be made up to and including the level GS–11 or its equivalent;

(B) a veteran shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;

(C) a veteran who is entitled to disability compensation under the laws administered by the Department of Veterans Affairs or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be given a preference for such an appointment over other veterans;

(D) a veteran receiving such an appointment shall—

(i) in the case of a veteran with less than 15 years of education, receive training or education; and

(ii) upon successful completion of the prescribed probationary period, acquire a competitive status; and

(E) a veteran given an appointment under the authority of this subsection whose employment under the appointment is terminated within one year after the date of such appointment shall have the same right to appeal that termination to the Merit Systems Protection Board as a career or career-conditional employee has during the first year of employment.

(2) This subsection applies to qualified covered veterans.

(3) A qualified covered veteran may receive such an appointment at any time.

(c) Each agency shall include in its affirmative action plan for the hiring, placement, and advancement of handicapped individuals in such agency as required by section 501(b) of the Rehabilitation Act of 1973 (29 U.S.C. 791(b)), a separate specification of plans (in accordance with regulations which the Office of Personnel Management shall prescribe in consultation with the Secretary, the Secretary of Labor, and the Secretary of Health and Human Services, consistent with the purposes, provisions, and priorities of such Act) to promote and carry out such affirmative action with respect to disabled veterans in order to achieve the purpose of this section.

(d) The Office of Personnel Management shall be responsible for the review and evaluation of the implementation of this section and the activities of each agency to carry out the purpose and provisions of this section. The Office shall periodically obtain (on at least an annual basis) information on the implementation of this section by each agency and on the activities of each agency to carry out the purpose and provisions of this section. The information obtained shall include specification of the use and extent of appointments made by each agency under subsection (b) of this section and the results of the plans required under subsection (c) of this section.

(e)(1) The Office of Personnel Management shall submit to the Congress annually a report on activities carried out under this section. Each such report shall include the following information with respect to each agency:

(A) The number of appointments made under subsection (b) of this section since the last such report and the grade levels in which such appointments were made.

(B) The number of individuals receiving appointments under such subsection whose appointments were converted to career or career-conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

(C) The number of such terminations since the last such report that were initiated by the agency involved and the number of such terminations since the last such report that were initiated by the individual involved.

(D) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.

(2) Information shown for an agency under clauses (A) through (D) of paragraph (1) of this subsection—

(A) shall be shown for all veterans; and

(B) shall be shown separately (i) for veterans who are entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty, and (ii) for other veterans.

(f) Notwithstanding section 4211 of this title, the terms ''veteran'' and ''disabled veteran'' as used in subsection (a) of this section shall have the meaning provided for under generally applicable civil service law and regulations.

(g) To further the policy stated in subsection (a) of this section, the Secretary may give preference to qualified covered veterans for employment in the Department as veterans' benefits counselors and veterans' claims examiners and in positions to provide the outreach services required under section 7722 of this title, to serve as veterans' representatives at certain educational institutions as provided in section 7724 of this title, or to provide readjustment counseling under section 1712A of this title.

(Added Pub. L. 93–508, title IV, § 403(a), Dec. 3, 1974, 88 Stat. 1593, § 2014; amended Pub. L. 95–202, title III, § 308, Nov. 23, 1977, 91 Stat. 1445; Pub. L. 95–520, § 6(b), Oct. 26, 1978, 92 Stat. 1821; Pub. L. 96–466, title V, § 510, title VIII, § 801(*l*), Oct. 17, 1980, 94 Stat. 2207, 2217; Pub. L. 97–72, title II, § 202(a), Nov. 3, 1981, 95 Stat. 1054; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98–543, title II, § 211, Oct. 24, 1984, 98 Stat. 2743; Pub. L. 99–576, title III, § 332, Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101–237, title IV, § 407(a)(1), (b), Dec. 18, 1989, 103 Stat. 2082; Pub. L. 102–16, § 9(a), (b), Mar. 22, 1991, 105 Stat. 54; renumbered § 4214 and amended Pub. L. 102–83, §§ 2(c)(5), 4(a)(1), (3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402–406; Pub. L. 102–127, § 4, Oct. 10, 1991, 105 Stat. 622; Pub. L. 102–568, title V, § 505, Oct. 29, 1992, 106 Stat. 4340; Pub. L. 107–288, § 2(c)(1)–(3), Nov. 7, 2002, 116 Stat. 2036.)

REFERENCES IN TEXT

Executive Order Numbered 11521 (March 26, 1970), referred to in subsec. (b)(1), is set out as a note under section 3302 of Title 5, Government Organization and Employees.

GS–11, referred to in subsec. (b)(1)(A), is contained in the General Schedule which is set out under section 5332 of Title 5.

Such Act, referred to in subsec. (c), means Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, popularly known as the Rehabilitation Act of 1973, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The civil service law, referred to in subsec. (f), is set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–288, § 2(c)(1), (3)(A)(i), substituted ''life'' for ''life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers'' in first sentence, ''uniquely qualified'' for ''major'' in second sentence, and ''qualified covered veterans (as defined in paragraph (2)(B))'' for ''disabled

veterans and certain veterans of the Vietnam era and of the post-Vietnam era'' in third sentence.

Subsec. (a)(2). Pub. L. 107–288, § 2(c)(3)(A)(ii), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the purposes of this section, the term 'agency' means a department, agency, or instrumentality in the executive branch.''

Subsec. (b)(1). Pub. L. 107–288, § 2(c)(2)(A), substituted ''recruitment'' for ''readjustment'' in introductory provisions.

Subsec. (b)(2). Pub. L. 107–288, § 2(c)(2)(B), substituted ''to qualified covered veterans.'' for ''to—'' and struck out subpars. (A) and (B) which read as follows:

''(A) a veteran of the Vietnam era; and

''(B) veterans who first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces after May 7, 1975, and were discharged or released from active duty under conditions other than dishonorable.''

Subsec. (b)(3). Pub. L. 107–288, § 2(c)(2)(C), amended par. (3) generally, substituting present provisions for provisions limiting reception of appointment to specified time periods.

Subsec. (e)(2)(B)(i). Pub. L. 107–288, § 2(c)(3)(B), struck out ''of the Vietnam era'' after ''veterans''.

Subsec. (g). Pub. L. 107–288, § 2(c)(3)(C), substituted ''qualified covered veterans'' for ''qualified special disabled veterans and qualified veterans of the Vietnam era'' and ''under section 1712A of this title'' for ''under section 1712A of this title to veterans of the Vietnam era''.

1992—Subsec. (b)(2)(A). Pub. L. 102–568, § 505(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''a veteran of the Vietnam era who—

''(i) is entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.; or

''(ii) during such era, served on active duty in the Armed Forces in a campaign or expedition for which a campaign badge has been authorized; and''.

Subsec. (b)(3)(A)(ii). Pub. L. 102–568, § 505(b)(1), substituted ''1995'' for ''1993''.

Subsec. (b)(3)(B)(ii). Pub. L. 102–568, § 505(b)(2), substituted ''December 31'' for ''December 18''.

1991—Pub. L. 102–83, § 5(a), renumbered section 2014 of this title as this section.

Subsec. (a)(1). Pub. L. 102–16, § 9(a), substituted ''The United States has an obligation to assist veterans of the Armed Forces in readjusting to civilian life since veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers. The Federal Government is also continuously concerned with building an effective work force, and veterans constitute a major recruiting source. It is, therefore, the policy of the United States'' for ''It is the policy of the United States'' and ''disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era'' for ''certain veterans of the Vietnam era and veterans of the post-Vietnam era''.

Subsec. (b)(1)(A). Pub. L. 102–16, § 9(b)(1)(A), substituted ''up to and including the level GS–11 or its equivalent'' for ''up to and including the level GS–9 or its equivalent or in the case of a veteran referred to in paragraph (2)(A) of this subsection, the level of GS–11 or its equivalent''.

Subsec. (b)(1)(B) to (D). Pub. L. 102–16, § 9(b)(1)(B), added cls. (B) to (D), redesignated former cl. (D) as (E), and struck out former cls. (B) and (C) which read as follows:

''(B) a veteran referred to in paragraph (2) of this subsection shall be eligible for such an appointment during (i) the four-year period beginning on the date of the veteran's last discharge or release from active duty, or (ii) the two-year period beginning on the date of the enactment of the Veterans Education and Employment Amendments of 1989, whichever ends later;

''(C) a veteran of the Vietnam era referred to in paragraph (2) of this subsection who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall be eligible for such an appointment without regard to the number of years of education completed by such veteran;''.

Subsec. (b)(1)(E), (F). Pub. L. 102–16, § 9(b)(1)(C), (D), redesignated cl. (D) as (E), substituted a period for ''; and'' at end, and struck out former cls. (E) and (F) which read as follows:

''(E) the requirement of an educational or training program for a veteran receiving such an appointment shall not apply if the veteran has 15 years or more of education; and

''(F) in the case of a veteran who is not a disabled veteran, the veteran may not have completed more than 16 years of education at the time of the veteran's appointment.''

Subsec. (b)(2)(A)(i). Pub. L. 102–127 substituted ''is entitled to disability compensation under the laws administered by the Secretary or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.'' for ''has a service-connected disability''.

Subsec. (b)(2)(B). Pub. L. 102–16, § 9(b)(2), added subpar. (B) and struck out former subpar. (B) which read as follows: ''a veteran who served on active duty after the Vietnam era.''

Subsec. (b)(3). Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)(A)(ii)(III)'' for ''1411(a)(1)(A)(ii)(III)'' and ''3018A(a)(1)'' for ''1418A(a)(1)'' in subpar. (D).

Pub. L. 102–16, § 9(b)(2), added par. (3) and struck out former par. (3) which read as follows: ''For purposes of paragraph (1)(B)(i) of this subsection, the last discharge or release from a period of 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 1411(a)(1)(A)(ii)(III) of this title.''

Subsec. (b)(4). Pub. L. 102–16, § 9(b)(2), struck out par. (4) which read as follows: ''No veterans readjustment appointment may be made under authority of this subsection after December 31, 1993.''

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' after ''with the''.

Subsec. (e)(2)(B). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''4211'' for ''2011''.

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted ''1712A'' for ''612A''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 2(c)(5), substituted ''7722'' for ''241'' and ''7724'' for ''243''.

1989—Subsec. (a)(1). Pub. L. 101–237, § 407(b)(1), substituted ''certain veterans of the Vietnam era and veterans of the post-Vietnam era who are qualified for such employment and advancement'' for ''qualified disabled veterans and veterans of the Vietnam era''.

Subsec. (b)(1). Pub. L. 101–237, § 407(b)(2)(A)(i), substituted ''veterans referred to in paragraph (2) of this subsection'' for ''veterans of the Vietnam era''.

Subsec. (b)(1)(A). Pub. L. 101–237, § 407(b)(2)(A)(ii), inserted before semicolon at end ''or in the case of a veteran referred to in paragraph (2)(A) of this subsection, the level of GS–11 or its equivalent''.

Subsec. (b)(1)(B). Pub. L. 101–237, § 407(b)(2)(A)(iii), added cl. (B) and struck out former cl. (B) which read as follows: ''a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment;''.

Subsec. (b)(1)(C). Pub. L. 101–237, § 407(b)(2)(A)(iv), inserted ''referred to in paragraph (2) of this subsection'' after ''a veteran of the Vietnam era''.

Subsec. (b)(1)(E), (F). Pub. L. 101–237, § 407(b)(2)(A)(v)–(vii), added subpars. (E) and (F).

Subsec. (b)(2), (3). Pub. L. 101–237, § 407(b)(2)(B), added pars. (2) and (3). Former par. (2) redesignated (4).

Subsec. (b)(4). Pub. L. 101–237, § 407(a)(1), redesignated former par. (2) as (4) and substituted ''1993'' for ''1989''.

1986—Subsec. (b)(2). Pub. L. 99–576 substituted ''December 31, 1989'' for ''September 30, 1986''.

1984—Subsec. (a). Pub. L. 98–543, § 211(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1)(A), (D). Pub. L. 98–543, § 211(b)(1), substituted ''GS–9'' for ''GS–7'' in subpar. (A) and added subpar. (D).

Subsec. (b)(2). Pub. L. 98–543, § 211(b)(2), substituted ''September 30, 1986'' for ''September 30, 1984''.

Subsec. (c). Pub. L. 98–543, § 211(c), substituted ''agency'' for ''department, agency, and instrumentality in the executive branch'' and ''such agency'' for ''such department, agency, or instrumentality''.

Subsec. (d). Pub. L. 98–543, § 211(d), substituted ''annual'' for ''semiannual'' in second sentence and struck out provisions listing information to be included in the report.

Subsec. (e). Pub. L. 98–543, § 211(d), substituted provisions listing information to be included with respect to each agency and setting forth to whom the information shall be shown for provisions which set forth reporting requirements regarding the employment of the handicapped.

1982—Subsec. (c). Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1981—Subsec. (b)(2). Pub. L. 97–72 substituted ''September 30, 1984'' for ''September 30, 1981''.

1980—Subsec. (b)(1). Pub. L. 96–466, § 801(*l*)(1), substituted ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (b)(2), (3). Pub. L. 96–466, § 801(*l*)(2), redesignated par. (3) as (2). Former par. (2), which provided that in this subsection ''veteran of the Vietnam era'' had the meaning given such term in section 2011(2)(A) of this title, was struck out.

Subsec. (c). Pub. L. 96–466, § 801(*l*)(1), (3), substituted ''the Rehabilitation Act of 1973 (29 U.S.C. 791(b))'' for ''Public Law 93–112 (87 Stat. 391)'' and ''Office of Personnel Management'' for ''Civil Service Commission''.

Subsec. (d). Pub. L. 96–466, § 801(*l*)(1), substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively.

Subsec. (e). Pub. L. 96–466, § 801(*l*)(1), (4), substituted ''Office of Personnel Management'' and ''Office'' for ''Civil Service Commission'' and ''Commission'', respectively, and ''the Rehabilitation Act of 1973 (29 U.S.C. 791(d))'' for ''such Public Law 93–112''.

Subsec. (g). Pub. L. 96–466, § 510, added subsec. (g).

1978—Subsec. (b). Pub. L. 95–520, § 6(b)(1), incorporated part of existing text in provisions designated par. (1), designated part of existing provision as item (A), increasing appointments to level GS–7 from GS–5, added items (B) and (C) and par. (2), designated part of existing text as par. (3), substituting Sept. 30, 1981, for June 30, 1978, as cut off date for veterans readjustment appointments, and struck out provisions: that in applying the one-year period of eligibility specified in section 2(a) of Ex. Ord. No. 11521 to a veteran or disabled veteran who enrolled, within one year following separation from the Armed Forces or following release from hospitalization or treatment following such separation in a program of education on more than a half-time basis, the time spent in such program of education was not to be counted; that the eligibility of the veteran for a readjustment appointment was to continue for not less than six months after the veteran first ceased to be enrolled therein on more than a half-time basis; and that directed the Chairman of the Civil Service Commission to report on the need for the continuation after June 30, 1978, of the authority for veterans readjustment appointments contained in subsec. (b), with the report to be submitted to the President and Congress not later than six months after enactment of the GI Bill Improvement Act of 1977 on Nov. 23, 1977.

Subsec. (d). Pub. L. 95–520, § 6(b)(2), substituted in second sentence ''subsection (c) of this section'' for ''subsection (c) thereof'' and inserted requirement that reports include certain prescribed information.

Subsec. (f). Pub. L. 95–520, § 6(b)(3), substituted ''as used in subsection (a) of this section'' for ''as used in this section''.

1977—Subsec. (b). Pub. L. 95–202 inserted provision directing Chairman of Civil Service Commission to report on need for continuation after June 30, 1978, of authority for veterans readjustment appointments contained in subsec. (b), with the report to be submitted to President and Congress not later than six months after enactment of GI Bill Improvement Act of 1977.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–288, § 2(c)(4), Nov. 7, 2002, 116 Stat. 2036, provided that: ''The amendments made by this subsection [amending this section] shall apply to qualified covered veterans without regard to any limitation relating to the date of the veteran's last discharge or release from active duty that may have otherwise applied under section 4214(b)(3) as in effect on the date before the date of the enactment of this Act [Nov. 7, 2002].''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 9(d) of Pub. L. 102–16, as amended by Pub. L. 102–86, title V, § 506(c), Aug. 14, 1991, 105 Stat. 426; Pub. L. 103–353, § 6(a), Oct. 13, 1994, 108 Stat. 3174, provided that: ''The amendments made by this section [amending this section] shall apply only to appointments made after the date of the enactment of this Act [Mar. 22, 1991].''

[Section 6(b) of Pub. L. 103–353 provided that: ''The amendment made by subsection (a) [amending section 9(d) of Pub. L. 102–16, set out above] shall take effect as if included in Public Law 102–16 to which such amendment relates.'']

[Section 506(c) of Pub. L. 102–86 provided that the amendment made by that section to section 9(d) of Pub. L. 102–16, set out above, is effective as of Mar. 22, 1991.]

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Jan. 1, 1990, see section 407(c) of Pub. L. 101–237, set out as a note under section 4211 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 202(b) of Pub. L. 97–72 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 510 of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(e) of Pub. L. 96–466, set out as a note under section 4101 of this title.

Amendment by section 801(*l*) of Pub. L. 96–466 effective Oct. 1, 1980, see section 802(h) of Pub. L. 96–466, set out as a note under section 3452 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–202 effective Nov. 23, 1977, see section 501 of Pub. L. 95–202, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective Dec. 3, 1974, see section 503 of Pub. L. 93–508, set out as an Effective Date of 1974 Amendment note under section 3452 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (e) of this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under

section 1113 of Title 31, Money and Finance, and page 188 of House Document No. 103–7.

CONTENTS OF REPORTS ON VETERANS' READJUSTMENT APPOINTMENTS

Pub. L. 95–454, title III, § 307(b)(2), Oct. 13, 1978, 92 Stat. 1147, as amended by Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, provided that: ''The Director of the Office of Personnel Management shall include in the reports required by section 4214(d) [formerly 2014(d)] of title 38, United States Code, the same type of information regarding the use of the authority provided in section 3112 of title 5, United States Code (as added by paragraph (1) of this subsection), as is required by such section 4214 with respect to the use of the authority to make veterans readjustment appointments.''

§ 4215. Priority of service for veterans in Department of Labor job training programs

(a) DEFINITIONS.—In this section:

(1) The term ''covered person'' means any of the following individuals:

(A) A veteran.

(B) The spouse of any of the following individuals:

(i) Any veteran who died of a service-connected disability.

(ii) Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in line of duty by a hostile force, or (III) forcibly detained or interned in line of duty by a foreign government or power.

(iii) Any veteran who has a total disability resulting from a service-connected disability.

(iv) Any veteran who died while a disability so evaluated was in existence.

(2) The term ''qualified job training program'' means any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the Department of Labor and includes the following:

(A) Any such program or service that uses technology to assist individuals to access workforce development programs (such as job and training opportunities, labor market information, career assessment tools, and related support services).

(B) Any such program or service under the public employment service system, one-stop career centers, the Workforce Investment Act of 1998, a demonstration or other temporary program, and those programs implemented by States or local service providers based on Federal block grants administered by the Department of Labor.

(C) Any such program or service that is a workforce development program targeted to specific groups.

(3) The term ''priority of service'' means, with respect to any qualified job training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law.

(b) ENTITLEMENT TO PRIORITY OF SERVICE.—(1) A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program.

(2) The Secretary of Labor may establish priorities among covered persons for purposes of this section to take into account the needs of disabled veterans and special disabled veterans, and such other factors as the Secretary determines appropriate.

(c) ADMINISTRATION OF PROGRAMS AT STATE AND LOCAL LEVELS.—An entity of a State or a political subdivision of the State that administers or delivers services under a qualified job training program shall—

(1) provide information and priority of service to covered persons regarding benefits and services that may be obtained through other entities or service providers; and

(2) ensure that each covered person who applies to or who is assisted by such a program is informed of the employment-related rights and benefits to which the person is entitled under this section.

(d) ADDITION TO ANNUAL REPORT.—In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the Secretary of Labor shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs, and whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any.

(Added Pub. L. 107–288, § 2(a)(1), Nov. 7, 2002, 116 Stat. 2033.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in subsec. (a)(2)(B), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

REQUIREMENT TO PROMPTLY ESTABLISH ONE-STOP EMPLOYMENT SERVICES

Pub. L. 107–288, § 4(c), Nov. 7, 2002, 116 Stat. 2044, provided that: ''By not later than 18 months after the date of the enactment of this Act [Nov. 7, 2002], the Secretary of Labor shall provide one-stop services and assistance to covered persons electronically by means of the Internet, as defined in section 231(e)(3) of the Communications Act of 1934 [47 U.S.C. 231(e)(3)], and such other electronic means to enhance the delivery of such services and assistance.''

CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES

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4334. Notice of rights and duties.

CODIFICATION

This chapter was originally added by Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1594, and amended by Pub. L. 94–286, May 14, 1976, 90 Stat. 517; Pub. L. 94–502, Oct. 15, 1976, 90 Stat. 2383; Pub. L. 96–466, Oct. 17, 1980, 94 Stat. 2171; Pub. L. 97–295, Oct. 12, 1982, 96 Stat. 1287; Pub. L. 98–620, Nov. 8, 1984, 98 Stat. 3335; Pub. L. 99–576, Oct. 28, 1986, 100 Stat. 3248; Pub. L. 102–12, Mar. 18, 1991, 105 Stat. 34; Pub. L. 102–25, Apr. 6, 1991, 105 Stat. 75; Pub. L. 102–568, Oct. 29, 1992, 106 Stat. 4320. This chapter is shown here, however, as having been added by Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150, without reference to those intervening amendments because of the general amendment of this chapter by Pub. L. 103–353.

A prior chapter 43 ''Mustering-Out Payments'', Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1222, 1223, consisted of sections 2101 to 2105, prior to repeal by Pub. L. 89–50, § 1(a), June 24, 1965, 79 Stat. 173.

AMENDMENTS

2004—Pub. L. 108–454, title II, § 203(b), Dec. 10, 2004, 118 Stat. 3606, added item 4334.

1998—Pub. L. 105–368, title II, § 212(b)(2), Nov. 11, 1998, 112 Stat. 3331, added item 4319.

SUBCHAPTER I—GENERAL

§ 4301. Purposes; sense of Congress

(a) The purposes of this chapter are—

(1) to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service;

(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service; and

(3) to prohibit discrimination against persons because of their service in the uniformed services.

(b) It is the sense of Congress that the Federal Government should be a model employer in carrying out the provisions of this chapter.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150; amended Pub. L. 104–275, title III, § 311(1), Oct. 9, 1996, 110 Stat. 3333.)

PRIOR PROVISIONS

A prior section 4301, added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1594, § 2021; amended Pub. L. 94–502, title VI, § 608(1), (2), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 99–576, title III, § 331, Oct. 28, 1986, 100 Stat. 3279; Pub. L. 102–12, § 5(a), Mar. 18, 1991, 105 Stat. 36; Pub. L. 102–25, title III, § 340(a), Apr. 6, 1991, 105 Stat. 92; renumbered § 4301, Pub. L. 102–568, title V, § 506(a), Oct. 29, 1992, 106 Stat. 4340, related to reemployment rights of persons inducted into the Armed Forces of the United States and benefits protected, prior to the general amendment of this chapter by Pub. L. 103–353. This section, as in effect on the day before Oct. 13, 1994, continues to apply to reemployments initiated before the end of the 60-day period beginning Oct. 13, 1994, see section 8 of Pub. L. 103–353, as amended, set out as an Effective Date note below.

Another prior section 4301 was renumbered section 7601 of this title.

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104–275 struck out ''under honorable conditions'' after ''upon their completion of such service''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 313 of Pub. L. 104–275 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle [subtitle B (§§ 311–313) of title III of Pub. L. 104–275, amending this section, sections 4303, 4311 to 4313, 4316 to 4318, and 4322 to 4326 of this title, and provisions set out as a note below] shall take effect as of October 13, 1994.

''(b) REORGANIZED TITLE 10 REFERENCES.—The amendments made by clause (i), and subclauses (I), (III), and (IV) of clause (ii), of section 311(4)(B) [amending section 4312 of this title] shall take effect as of December 1, 1994.''

EFFECTIVE DATE

Section 8 of Pub. L. 103–353, as amended by Pub. L. 104–275, title III, § 312, Oct. 9, 1996, 110 Stat. 3336, provided that:

''(a) REEMPLOYMENT.—(1) Except as otherwise provided in this Act [see Short Title of 1994 Amendment note set out under section 101 of this title], the amendments made by this Act shall be effective with respect to reemployments initiated on or after the first day after the 60-day period beginning on the date of enactment of this Act [Oct. 13, 1994].

''(2) The provisions of chapter 43 of title 38, United States Code, in effect on the day before such date of enactment, shall continue to apply to reemployments initiated before the end of such 60-day period.

''(3) In determining the number of years of service that may not be exceeded in an employee-employer relationship with respect to which a person seeks reemployment under chapter 43 of title 38, United States Code, as in effect before or after the date of enactment

of this Act, there shall be included all years of service without regard to whether the periods of service occurred before or after such date of enactment unless the period of service is exempted by the chapter 43 that is applicable, as provided in paragraphs (1) and (2), to the reemployment concerned. Any service begun up to 60 days after the date of the enactment of this Act, which is served up to 60 days after the date of the enactment of this Act pursuant to orders issued under section 502(f) of title 32, United States Code, shall be considered under chapter 43 of title 38, United States Code, as in effect on the day before such date of enactment. Any service pursuant to orders issued under such section 502(f) served after 60 days after the date of the enactment of this Act, regardless of when begun, shall be considered under the amendments made by this Act.

''(4) A person who initiates reemployment under chapter 43 of title 38, United States Code, during or after the 60-day period beginning on the date of enactment of this Act and whose reemployment is made in connection with a period of service in the uniformed services that was initiated before the end of such 60-day period shall be deemed to have satisfied the notification requirement of section 4312(a)(1) of title 38, United States Code, as provided in the amendments made by this Act, if the person complied with any applicable notice requirement under chapter 43, United States Code, as in effect on the day before the date of enactment of this Act [Oct. 13, 1994].

''(b) DISCRIMINATION.—The provisions of section 4311 of title 38, United States Code, as provided in the amendments made by this Act, and the provisions of subchapter III of chapter 43 of such title, as provided in the amendments made by this Act, that are necessary for the implementation of such section 4311 shall become effective on the date of enactment of this Act [Oct. 13, 1994].

''(c) INSURANCE.—(1) The provisions of section 4316 of title 38, United States Code, as provided in the amendments made by this Act, concerning insurance coverage (other than health) shall become effective with respect to furloughs or leaves of absence initiated on or after the date of enactment of this Act [Oct. 13, 1994].

''(2) With respect to the provisions of section 4317 of title 38, United States Code, as provided in the amendments made by this Act, a person serving a period of service in the uniformed services on the date of enactment of this Act, or a family member or personal representative of such person, may, after the date of enactment of this Act, elect to reinstate or continue a health plan as provided in such section 4317. If such an election is made, the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is the period of lesser duration.

''(d) DISABILITY.—(1) Section 4313(a)(3) of chapter 43 of title 38, United States Code, as provided in the amendments made by this Act, shall apply to reemployments initiated on or after August 1, 1990.

''(2) Effective as of August 1, 1990, section 4307 of title 38, United States Code (as in effect on the date of enactment of this Act [Oct. 13, 1994]), is repealed, and the table of sections at the beginning of chapter 43 of such title (as in effect on the date of enactment of this Act) is amended by striking out the item relating to section 4307.

''(e) INVESTIGATIONS AND SUBPOENAS.—The provisions of section 4326 of title 38, United States Code, as provided in the amendments made by this Act, shall become effective on the date of the enactment of this Act [Oct. 13, 1994] and apply to any matter pending with the Secretary of Labor under section 4305 of title 38, United States Code, as of that date.

''(f) PREVIOUS ACTIONS.—Except as otherwise provided, the amendments made by this Act do not affect reemployments that were initiated, rights, benefits, and duties that matured, penalties that were incurred, and proceedings that begin before the end of the 60-day period referred to in subsection (a).

''(g) RIGHTS AND BENEFITS RELATIVE TO NOTICE OF INTENT NOT TO RETURN.—Section 4316(b)(2) of title 38, United States Code, as added by the amendments made by this Act, applies only to the rights and benefits provided in section 4316(b)(1)(B) and does not apply to any other right or benefit of a person under chapter 43 of title 38, United States Code. Such section shall apply only to persons who leave a position of employment for service in the uniformed services more than 60 days after the date of enactment of this Act [Oct. 13, 1994].

''(h) EMPLOYER PENSION BENEFIT PLANS.—(1) Nothing in this Act shall be construed to relieve an employer of an obligation to provide contributions to a pension plan (or provide pension benefits), or to relieve the obligation of a pension plan to provide pension benefits, which is required by the provisions of chapter 43 of title 38, United States Code, in effect on the day before this Act takes effect [probably means the day before Oct. 13, 1994].

''(2) If any employee pension benefit plan is not in compliance with section 4318 of such title or paragraph (1) of this subsection on the date of enactment of this Act [Oct. 13, 1994], such plan shall have two years to come into compliance with such section and paragraph.

''(i) DEFINITION.—For the purposes of this section, the term 'service in the uniformed services' shall have the meaning given such term in section 4303(13) of title 38, United States Code, as provided in the amendments made by this Act.''

DEMONSTRATION PROJECT FOR REFERRAL OF USERRA CLAIMS AGAINST FEDERAL AGENCIES TO THE OFFICE OF SPECIAL COUNSEL

Pub. L. 108–454, title II, § 204, Dec. 10, 2004, 118 Stat. 3606, provided that:

''(a) ESTABLISHMENT OF PROJECT.—The Secretary of Labor and the Office of Special Counsel shall carry out a demonstration project under which certain claims against Federal executive agencies under the Uniformed Services Employment and Reemployment Rights Act [of 1994, Pub. L. 103–353, see Tables for classification] under chapter 43 of title 38, United States Code, are referred to, or otherwise received by, the Office of Special Counsel for assistance, including investigation and resolution of the claim as well as enforcement of rights with respect to the claim.

''(b) REFERRAL OF ALL PROHIBITED PERSONNEL ACTION CLAIMS TO THE OFFICE OF SPECIAL COUNSEL.—(1) Under the demonstration project, the Office of Special Counsel shall receive and investigate all claims under the Uniformed Services Employment and Reemployment Rights Act [of 1994] with respect to Federal executive agencies in cases where the Office of Special Counsel has jurisdiction over related claims pursuant to section 1212 of title 5, United States Code.

''(2) For purposes of paragraph (1), a related claim is a claim involving the same Federal executive agency and the same or similar factual allegations or legal issues as those being pursued under a claim under the Uniformed Services Employment and Reemployment Rights Act [of 1994].

''(c) REFERRAL OF OTHER CLAIMS AGAINST FEDERAL EXECUTIVE AGENCIES.—(1) Under the demonstration project, the Secretary—

''(A) shall refer to the Office of Special Counsel all claims described in paragraph (2) made during the period of the demonstration project; and

''(B) may refer any claim described in paragraph (2) filed before the demonstration project that is pending before the Secretary at the beginning of the demonstration project.

''(2) A claim referred to in paragraph (1) is a claim under chapter 43 of title 38, United States Code, against a Federal executive agency by a claimant with a social security account number with an odd number as its terminal digit, or, in the case of a claim that does not contain a social security account number, a case number assigned to the claim with an odd number as its terminal digit.

''(d) ADMINISTRATION OF DEMONSTRATION PROJECT.—(1) The Office of Special Counsel shall administer the dem-

onstration project. The Secretary shall cooperate with the Office of Special Counsel in carrying out the demonstration project.

''(2) In the case of any claim referred [to], or otherwise received by, to [sic] the Office of Special Counsel under the demonstration project, any reference to the 'Secretary' in sections 4321, 4322, and 4326 of title 38, United States Code, is deemed a reference to the 'Office of Special Counsel'.

''(3) In the case of any claim referred to, or otherwise received by, the Office of Special Counsel under the demonstration project, the Office of Special Counsel shall retain administrative jurisdiction over the claim.

''(e) PERIOD OF PROJECT.—The demonstration project shall be carried out during the period beginning on the date that is 60 days after the date of the enactment of this Act [Dec. 10, 2004], and ending on September 30, 2007.

''(f) EVALUATIONS AND REPORT.—(1) The Comptroller General of the United States shall conduct periodic evaluations of the demonstration project under this section.

''(2) Not later than April 1, 2007, the Comptroller General shall submit to Congress a report on the evaluations conducted under paragraph (1). The report shall include the following information and recommendations:

''(A) A description of the operation and results of the demonstration program, including—

''(i) the number of claims described in subsection (c) referred to, or otherwise received by, the Office of Special Counsel, and the number of such claims referred to the Secretary of Labor; and

''(ii) for each Federal executive agency, the number of claims resolved, the type of corrective action obtained, the period of time for final resolution of the claim, and the results obtained.

''(B) An assessment of whether referral to the [O]ffice of [S]pecial [C]ounsel of claims under the demonstration project—

''(i) improved services to servicemembers and veterans; or

''(ii) significantly reduced or eliminated duplication of effort and unintended delays in resolving meritorious claims of those servicemembers and veterans.

''(C) An assessment of the feasibility and advisability of referring all claims under chapter 43 of title 38, United States Code, against Federal executive agencies to the Office of Special Counsel for investigation and resolution.

''(D) Such other recommendations for administrative action or legislation as the Comptroller General determines appropriate.

''(g) DEFINITIONS.—In this section:

''(1) The term 'Office of Special Counsel' means the Office of Special Counsel established by section 1211 of title 5, United States Code.

''(2) The term 'Secretary' means the Secretary of Labor.

''(3) The term 'Federal executive agency' has the meaning given that term in section 4303(5) of title 38, United States Code.''

§ 4302. Relation to other law and plans or agreements

(a) Nothing in this chapter shall supersede, nullify or diminish any Federal or State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that establishes a right or benefit that is more beneficial to, or is in addition to, a right or benefit provided for such person in this chapter.

(b) This chapter supersedes any State law (including any local law or ordinance), contract, agreement, policy, plan, practice, or other matter that reduces, limits, or eliminates in any manner any right or benefit provided by this chapter, including the establishment of additional prerequisites to the exercise of any such right or the receipt of any such benefit.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150.)

PRIOR PROVISIONS

A prior section 4302, added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1596, § 2022; amended Pub. L. 97–295, § 4(71), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 98–620, title IV, § 402(36), Nov. 8, 1984, 98 Stat. 3360; renumbered § 4302 and amended Pub. L. 102–568, title V, § 506(a), (c)(1), Oct. 29, 1992, 106 Stat. 4340, 4341, related to procedures to enforce reemployment rights, prior to the general amendment of this chapter by Pub. L. 103–353. This section, as in effect on the day before Oct. 13, 1994, continues to apply to reemployments initiated before the end of the 60-day period beginning Oct. 13, 1994, see section 8 of Pub. L. 103–353, as amended, set out as an Effective Date under section 4301 of this title.

Another prior section 4302 was renumbered section 7602 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4303. Definitions

For the purposes of this chapter—

(1) The term ''Attorney General'' means the Attorney General of the United States or any person designated by the Attorney General to carry out a responsibility of the Attorney General under this chapter.

(2) The term ''benefit'', ''benefit of employment'', or ''rights and benefits'' means any advantage, profit, privilege, gain, status, account, or interest (other than wages or salary for work performed) that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

(3) The term ''employee'' means any person employed by an employer. Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.

(4)(A) Except as provided in subparagraphs (B) and (C), the term ''employer'' means any person, institution, organization, or other entity that pays salary or wages for work performed or that has control over employment opportunities, including—

(i) a person, institution, organization, or other entity to whom the employer has delegated the performance of employment-related responsibilities;

(ii) the Federal Government;

(iii) a State;

(iv) any successor in interest to a person, institution, organization, or other entity referred to in this subparagraph; and

(v) a person, institution, organization, or other entity that has denied initial employment in violation of section 4311.

(B) In the case of a National Guard technician employed under section 709 of title 32, the term ''employer'' means the adjutant general of the State in which the technician is employed.

(C) Except as an actual employer of employees, an employee pension benefit plan described in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) shall be deemed to be an employer only with respect to the obligation to provide benefits described in section 4318.

(5) The term ''Federal executive agency'' includes the United States Postal Service, the Postal Rate Commission, any nonappropriated fund instrumentality of the United States, any Executive agency (as that term is defined in section 105 of title 5) other than an agency referred to in section 2302(a)(2)(C)(ii) of title 5, and any military department (as that term is defined in section 102 of title 5) with respect to the civilian employees of that department.

(6) The term ''Federal Government'' includes any Federal executive agency, the legislative branch of the United States, and the judicial branch of the United States.

(7) The term ''health plan'' means an insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or other arrangement under which health services for individuals are provided or the expenses of such services are paid.

(8) The term ''notice'' means (with respect to subchapter II) any written or verbal notification of an obligation or intention to perform service in the uniformed services provided to an employer by the employee who will perform such service or by the uniformed service in which such service is to be performed.

(9) The term ''qualified'', with respect to an employment position, means having the ability to perform the essential tasks of the position.

(10) The term ''reasonable efforts'', in the case of actions required of an employer under this chapter, means actions, including training provided by an employer, that do not place an undue hardship on the employer.

(11) Notwithstanding section 101, the term ''Secretary'' means the Secretary of Labor or any person designated by such Secretary to carry out an activity under this chapter.

(12) The term ''seniority'' means longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.

(13) The term ''service in the uniformed services'' means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(14) The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and other territories of the United States (including the agencies and political subdivisions thereof).

(15) The term ''undue hardship'', in the case of actions taken by an employer, means actions requiring significant difficulty or expense, when considered in light of—

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the provision of the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the employer; the overall size of the business of an employer with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the employer, including the composition, structure, and functions of the work force of such employer; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the employer.

(16) The term ''uniformed services'' means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3150; amended Pub. L. 104–275, title III, § 311(2), Oct. 9, 1996, 110 Stat. 3334; Pub. L. 105–368, title II, § 212(a), Nov. 11, 1998, 112 Stat. 3331; Pub. L. 106–419, title III, § 323(a), Nov. 1, 2000, 114 Stat. 1855; Pub. L. 107–14, § 8(a)(11), (b)(2), June 5, 2001, 115 Stat. 35, 36.)

PRIOR PROVISIONS

A prior section 4303, added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1596, § 2023; amended Pub. L. 97–295, § 4(72), Oct. 12, 1982, 96 Stat. 1310; renumbered § 4303 and amended Pub. L. 102–568, title V, § 506(a), (c)(2), Oct. 29, 1992, 106 Stat. 4340, 4341, related to reemployment by the United States, by any territory, possession, or political subdivision thereof, or by the District of Columbia, prior to the general amendment of this chapter by Pub. L. 103–353. This section, as in effect on the day before Oct. 13, 1994, continues to apply to reemployments initiated before the end of the 60-day period beginning Oct. 13, 1994, see section 8 of Pub. L. 103–353, as amended, set out as an Effective Date under section 4301 of this title.

Another prior section 4303 was renumbered section 7603 of this title.

AMENDMENTS

2001—Par. (13). Pub. L. 107–14, § 8(b)(2), made technical amendment to directory language of Pub. L. 106–419, § 323(a)(1). See 2000 Amendment note below.

Pub. L. 107–14, § 8(a)(11), struck out second period at end.

2000—Par. (13). Pub. L. 106–419, § 323(a)(2), inserted before period at end '', and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.''

Pub. L. 106–419, § 323(a)(1), as amended by Pub. L. 107–14, § 8(b)(2), struck out ''and'' after ''National Guard duty,''.

1998—Par. (3). Pub. L. 105–368 inserted at end ''Such term includes any person who is a citizen, national, or permanent resident alien of the United States employed in a workplace in a foreign country by an employer that is an entity incorporated or otherwise organized in the United States or that is controlled by an entity organized in the United States, within the meaning of section 4319(c) of this title.''

1996—Par. (16). Pub. L. 104–275 inserted ''national'' before ''emergency''.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–14, § 8(b), June 5, 2001, 115 Stat. 34, provided that the amendment made by section 8(b) is effective Nov. 1, 2000, and as if included in the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106–419, as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title III, § 323(c), Nov. 1, 2000, 114 Stat. 1856, provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 4316 of this title] shall take effect 180 days after the date of the enactment of this Act [Nov. 1, 2000].''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 212(c), Nov. 11, 1998, 112 Stat. 3331, provided that: ''The amendments made by this section [enacting section 4319 of this title and amending this section] shall apply only with respect to causes of action arising after the date of the enactment of this Act [Nov. 11, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4304. Character of service

A person's entitlement to the benefits of this chapter by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

(1) A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

(2) A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned.

(3) A dismissal of such person permitted under section 1161(a) of title 10.

(4) A dropping of such person from the rolls pursuant to section 1161(b) of title 10.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3152.)

PRIOR PROVISIONS

Prior sections 4304 to 4306 were omitted in the general amendment of this chapter by Pub. L. 103–353. Those sections, as in effect on the day before Oct. 13, 1994, continue to apply to reemployments initiated before the end of the 60-day period beginning Oct. 13, 1994, see section 8 of Pub. L. 103–353, as amended, set out as an Effective Date under section 4301 of this title.

Section 4304, added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1598, § 2024; amended Pub. L. 94–286, § 2, May 14, 1976, 90 Stat. 518; Pub. L. 94–502, title VI, § 608(3), Oct. 15, 1976, 90 Stat. 2405; Pub. L. 96–466, title V, § 511, Oct. 17, 1980, 94 Stat. 2207; Pub. L. 99–576, title VII, § 701(60), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 102–12, § 8(a)(1), (b)(1), Mar. 18, 1991, 105 Stat. 38; renumbered § 4304 and amended Pub. L. 102–568, title V, § 506(a), (c)(3), Oct. 29, 1992, 106 Stat. 4340, 4341, related to reemployment rights of persons who enlist in the Armed Forces or enter upon active duty.

Another prior section 4304 was renumbered section 7604 of this title.

Section 4305, added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1600, § 2025; renumbered § 4305, Pub. L. 102–568, title V, § 506(a), Oct. 29, 1992, 106 Stat. 4340, directed the Secretary of Labor, through the Office of Veterans' Reemployment Rights, to render assistance in obtaining reemployment.

Section 4306, added Pub. L. 93–508, title IV, § 404(a), Dec. 3, 1974, 88 Stat. 1600, § 2026; renumbered § 4306, Pub. L. 102–568, title V, § 506(a), Oct. 29, 1992, 106 Stat. 4340, related to prior rights for reemployment in a case in which more than one person is entitled to be reemployed.

A prior section 4307, added Pub. L. 102–25, title III, § 339(a), Apr. 6, 1991, 105 Stat. 91, § 2027; renumbered § 4307, Pub. L. 102–568, title V, § 506(a), Oct. 29, 1992, 106 Stat. 4340, related to qualification for employment position, prior to repeal by Pub. L. 103–353, § 8(d)(2), Oct. 13, 1994, 108 Stat. 3176, eff. Aug. 1, 1990.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

SUBCHAPTER II—EMPLOYMENT AND REEMPLOYMENT RIGHTS AND LIMITATIONS; PROHIBITIONS

§ 4311. Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited

(a) A person who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform service in a uniformed service shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(b) An employer may not discriminate in employment against or take any adverse employment action against any person because such person (1) has taken an action to enforce a protection afforded any person under this chapter, (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter, (3) has assisted or otherwise participated in an investigation under this chapter,

or (4) has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.

(c) An employer shall be considered to have engaged in actions prohibited—

(1) under subsection (a), if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, service, application for service, or obligation for service; or

(2) under subsection (b), if the person's (A) action to enforce a protection afforded any person under this chapter, (B) testimony or making of a statement in or in connection with any proceeding under this chapter, (C) assistance or other participation in an investigation under this chapter, or (D) exercise of a right provided for in this chapter, is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such person's enforcement action, testimony, statement, assistance, participation, or exercise of a right.

(d) The prohibitions in subsections (a) and (b) shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C) of this title.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3153; amended Pub. L. 104–275, title III, § 311(3), Oct. 9, 1996, 110 Stat. 3334.)

PRIOR PROVISIONS

A prior section 4311 was renumbered section 7611 of this title.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–275 added subsec. (b) and struck out former subsec. (b) which read as follows: ''An employer shall be considered to have denied a person initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the person's membership, application for membership, service, application for service, or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership, application for membership, performance of service, application for service, or obligation.''

Subsecs. (c), (d). Pub. L. 104–275 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows:

''(c)(1) An employer may not discriminate in employment against or take any adverse employment action against any person because such person has taken an action to enforce a protection afforded any person under this chapter, has testified or otherwise made a statement in or in connection with any proceeding under this chapter, has assisted or otherwise participated in an investigation under this chapter, or has exercised a right provided for in this chapter.

''(2) The prohibition in paragraph (1) shall apply with respect to a person regardless of whether that person has performed service in the uniformed services and shall apply to any position of employment, including a position that is described in section 4312(d)(1)(C).''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 13, 1994, except as otherwise provided, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4312. Reemployment rights of persons who serve in the uniformed services

(a) Subject to subsections (b), (c), and (d) and to section 4304, any person whose absence from a position of employment is necessitated by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if—

(1) the person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to such person's employer;

(2) the cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years; and

(3) except as provided in subsection (f), the person reports to, or submits an application for reemployment to, such employer in accordance with the provisions of subsection (e).

(b) No notice is required under subsection (a)(1) if the giving of such notice is precluded by military necessity or, under all of the relevant circumstances, the giving of such notice is otherwise impossible or unreasonable. A determination of military necessity for the purposes of this subsection shall be made pursuant to regulations prescribed by the Secretary of Defense and shall not be subject to judicial review.

(c) Subsection (a) shall apply to a person who is absent from a position of employment by reason of service in the uniformed services if such person's cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, does not exceed five years, except that any such period of service shall not include any service—

(1) that is required, beyond five years, to complete an initial period of obligated service;

(2) during which such person was unable to obtain orders releasing such person from a period of service in the uniformed services before the expiration of such five-year period and such inability was through no fault of such person;

(3) performed as required pursuant to section 10147 of title 10, under section 502(a) or 503 of title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

(4) performed by a member of a uniformed service who is—

(A) ordered to or retained on active duty under section 688, 12301(a), 12301(g), 12302, 12304, or 12305 of title 10 or under section 331, 332, 359, 360, 367, or 712 of title 14;

(B) ordered to or retained on active duty (other than for training) under any provision of law because of a war or national emergency declared by the President or the Congress, as determined by the Secretary concerned;

(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 12304 of title 10;

(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

(E) called into Federal service as a member of the National Guard under chapter 15 of title 10 or under section 12406 of title 10.

(d)(1) An employer is not required to reemploy a person under this chapter if—

(A) the employer's circumstances have so changed as to make such reemployment impossible or unreasonable;

(B) in the case of a person entitled to reemployment under subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313, such employment would impose an undue hardship on the employer; or

(C) the employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

(2) In any proceeding involving an issue of whether—

(A) any reemployment referred to in paragraph (1) is impossible or unreasonable because of a change in an employer's circumstances,

(B) any accommodation, training, or effort referred to in subsection (a)(3), (a)(4), or (b)(2)(B) of section 4313 would impose an undue hardship on the employer, or

(C) the employment referred to in paragraph (1)(C) is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period,

the employer shall have the burden of proving the impossibility or unreasonableness, undue hardship, or the brief or nonrecurrent nature of the employment without a reasonable expectation of continuing indefinitely or for a significant period.

(e)(1) Subject to paragraph (2), a person referred to in subsection (a) shall, upon the completion of a period of service in the uniformed services, notify the employer referred to in such subsection of the person's intent to return to a position of employment with such employer as follows:

(A) In the case of a person whose period of service in the uniformed services was less than 31 days, by reporting to the employer—

(i) not later than the beginning of the first full regularly scheduled work period on the first full calendar day following the completion of the period of service and the expiration of eight hours after a period allowing for the safe transportation of the person from the place of that service to the person's residence; or

(ii) as soon as possible after the expiration of the eight-hour period referred to in clause (i), if reporting within the period referred to in such clause is impossible or unreasonable through no fault of the person.

(B) In the case of a person who is absent from a position of employment for a period of any length for the purposes of an examination to determine the person's fitness to perform service in the uniformed services, by reporting in the manner and time referred to in subparagraph (A).

(C) In the case of a person whose period of service in the uniformed services was for more than 30 days but less than 181 days, by submitting an application for reemployment with the employer not later than 14 days after the completion of the period of service or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

(D) In the case of a person whose period of service in the uniformed services was for more than 180 days, by submitting an application for reemployment with the employer not later than 90 days after the completion of the period of service.

(2)(A) A person who is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service in the uniformed services shall, at the end of the period that is necessary for the person to recover from such illness or injury, report to the person's employer (in the case of a person described in subparagraph (A) or (B) of paragraph (1)) or submit an application for reemployment with such employer (in the case of a person described in subparagraph (C) or (D) of such paragraph). Except as provided in subparagraph (B), such period of recovery may not exceed two years.

(B) Such two-year period shall be extended by the minimum time required to accommodate the circumstances beyond such person's control which make reporting within the period specified in subparagraph (A) impossible or unreasonable.

(3) A person who fails to report or apply for employment or reemployment within the appropriate period specified in this subsection shall not automatically forfeit such person's entitlement to the rights and benefits referred to in subsection (a) but shall be subject to the conduct rules, established policy, and general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work.

(f)(1) A person who submits an application for reemployment in accordance with subparagraph (C) or (D) of subsection (e)(1) or subsection (e)(2) shall provide to the person's employer (upon the request of such employer) documentation to establish that—

(A) the person's application is timely;

(B) the person has not exceeded the service limitations set forth in subsection (a)(2) (except as permitted under subsection (c)); and

(C) the person's entitlement to the benefits under this chapter has not been terminated pursuant to section 4304.

(2) Documentation of any matter referred to in paragraph (1) that satisfies regulations prescribed by the Secretary shall satisfy the documentation requirements in such paragraph.

(3)(A) Except as provided in subparagraph (B), the failure of a person to provide documentation that satisfies regulations prescribed pursuant to paragraph (2) shall not be a basis for denying reemployment in accordance with the provisions of this chapter if the failure occurs because such documentation does not exist or is not readily available at the time of the request of the employer. If, after such reemployment, documentation becomes available that establishes that such person does not meet one or more of the requirements referred to in subparagraphs (A), (B), and (C) of paragraph (1), the employer of such person may terminate the employment of the person and the provision of any rights or benefits afforded the person under this chapter.

(B) An employer who reemploys a person absent from a position of employment for more than 90 days may require that the person provide the employer with the documentation referred to in subparagraph (A) before beginning to treat the person as not having incurred a break in service for pension purposes under section 4318(a)(2)(A).

(4) An employer may not delay or attempt to defeat a reemployment obligation by demanding documentation that does not then exist or is not then readily available.

(g) The right of a person to reemployment under this section shall not entitle such person to retention, preference, or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

(h) In any determination of a person's entitlement to protection under this chapter, the timing, frequency, and duration of the person's training or service, or the nature of such training or service (including voluntary service) in the uniformed services, shall not be a basis for denying protection of this chapter if the service does not exceed the limitations set forth in subsection (c) and the notice requirements established in subsection (a)(1) and the notification requirements established in subsection (e) are met.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3153; amended Pub. L. 104–275, title III, § 311(4), Oct. 9, 1996, 110 Stat. 3334.)

PRIOR PROVISIONS

A prior section 4312 was renumbered section 7612 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–275, § 311(4)(A), substituted ''whose absence from a position of employment is necessitated'' for ''who is absent from a position of employment''.

Subsec. (c)(3). Pub. L. 104–275, § 311(4)(B)(i), substituted ''section 10147'' for ''section 270''.

Subsec. (c)(4)(A). Pub. L. 104–275, § 311(4)(B)(ii)(I), substituted ''section 688, 12301(a), 12301(g), 12302, 12304, or 12305'' for ''section 672(a), 672(g), 673, 673b, 673c, or 688''.

Subsec. (c)(4)(B). Pub. L. 104–275, § 311(4)(B)(ii)(II), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''ordered to or retained on active duty (other than for training) under any provision of law during a war or during a national emergency declared by the President or the Congress;''.

Subsec. (c)(4)(C). Pub. L. 104–275, § 311(4)(B)(ii)(III), substituted ''section 12304'' for ''section 673b''.

Subsec. (c)(4)(E). Pub. L. 104–275, § 311(4)(B)(ii)(IV), substituted ''section 12406'' for ''section 3500 or 8500''.

Subsec. (d)(2)(C). Pub. L. 104–275, § 311(4)(C), substituted ''is for a brief, nonrecurrent period and there is no reasonable expectation'' for ''is brief or for a nonrecurrent period and without a reasonable expectation''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 311(4)(A), (B)(ii)(II), (C) of Pub. L. 104–275 effective Oct. 13, 1994, and amendment by section 311(4)(B)(i), (ii)(I), (III), (IV) of Pub. L. 104–275 effective Dec. 1, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, and with provisions relating to satisfaction of the notification requirement of subsec. (a)(1) of this section, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4313. Reemployment positions

(a) Subject to subsection (b) (in the case of any employee) and sections 4314 and 4315 (in the case of an employee of the Federal Government), a person entitled to reemployment under section 4312, upon completion of a period of service in the uniformed services, shall be promptly reemployed in a position of employment in accordance with the following order of priority:

(1) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for less than 91 days—

(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, the duties of which the person is qualified to perform; or

(B) in the position of employment in which the person was employed on the date of the commencement of the service in the uniformed services, only if the person is not qualified to perform the duties of the position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(2) Except as provided in paragraphs (3) and (4), in the case of a person whose period of service in the uniformed services was for more than 90 days—

(A) in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or a position of like seniority, status and pay, the duties of which the person is qualified to perform; or

(B) in the position of employment in which the person was employed on the date of the

commencement of the service in the uniformed services, or a position of like seniority, status and pay, the duties of which the person is qualified to perform, only if the person is not qualified to perform the duties of a position referred to in subparagraph (A) after reasonable efforts by the employer to qualify the person.

(3) In the case of a person who has a disability incurred in, or aggravated during, such service, and who (after reasonable efforts by the employer to accommodate the disability) is not qualified due to such disability to be employed in the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service—

(A) in any other position which is equivalent in seniority, status, and pay, the duties of which the person is qualified to perform or would become qualified to perform with reasonable efforts by the employer; or

(B) if not employed under subparagraph (A), in a position which is the nearest approximation to a position referred to in subparagraph (A) in terms of seniority, status, and pay consistent with circumstances of such person's case.

(4) In the case of a person who (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniformed services for any reason (other than disability incurred in, or aggravated during, service in the uniformed services), and (B) cannot become qualified with reasonable efforts by the employer, in any other position which is the nearest approximation to a position referred to first in clause (A)(i) and then in clause (A)(ii) which such person is qualified to perform, with full seniority.

(b)(1) If two or more persons are entitled to reemployment under section 4312 in the same position of employment and more than one of them has reported for such reemployment, the person who left the position first shall have the prior right to reemployment in that position.

(2) Any person entitled to reemployment under section 4312 who is not reemployed in a position of employment by reason of paragraph (1) shall be entitled to be reemployed as follows:

(A) Except as provided in subparagraph (B), in any other position of employment referred to in subsection (a)(1) or (a)(2), as the case may be (in the order of priority set out in the applicable subsection), that provides a similar status and pay to a position of employment referred to in paragraph (1) of this subsection, consistent with the circumstances of such person's case, with full seniority.

(B) In the case of a person who has a disability incurred in, or aggravated during, a period of service in the uniformed services that requires reasonable efforts by the employer for the person to be able to perform the duties of the position of employment, in any other position referred to in subsection (a)(3) (in the order of priority set out in that subsection) that provides a similar status and pay to a position referred to in paragraph (1) of this subsection, consistent with circumstances of such person's case, with full seniority.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3157; amended Pub. L. 104–275, title III, § 311(5), Oct. 9, 1996, 110 Stat. 3335.)

PRIOR PROVISIONS

A prior section 4313 was renumbered section 7613 of this title.

AMENDMENTS

1996—Subsec. (a)(4). Pub. L. 104–275 substituted ''uniformed services'' for ''uniform services'' in cl. (A)(ii) and ''which is the nearest approximation to a position referred to first in clause (A)(i) and then in clause (A)(ii) which'' for ''of lesser status and pay which'' in cl. (B).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that subsec. (a)(3) of this section applicable to reemployments initiated on or after Aug. 1, 1990, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4314. Reemployment by the Federal Government

(a) Except as provided in subsections (b), (c), and (d), if a person is entitled to reemployment by the Federal Government under section 4312, such person shall be reemployed in a position of employment as described in section 4313.

(b)(1) If the Director of the Office of Personnel Management makes a determination described in paragraph (2) with respect to a person who was employed by a Federal executive agency at the time the person entered the service from which the person seeks reemployment under this section, the Director shall—

(A) identify a position of like seniority, status, and pay at another Federal executive agency that satisfies the requirements of section 4313 and for which the person is qualified; and

(B) ensure that the person is offered such position.

(2) The Director shall carry out the duties referred to in subparagraphs (A) and (B) of paragraph (1) if the Director determines that—

(A) the Federal executive agency that employed the person referred to in such paragraph no longer exists and the functions of such agency have not been transferred to another Federal executive agency; or

(B) it is impossible or unreasonable for the agency to reemploy the person.

(c) If the employer of a person described in subsection (a) was, at the time such person en-

tered the service from which such person seeks reemployment under this section, a part of the judicial branch or the legislative branch of the Federal Government, and such employer determines that it is impossible or unreasonable for such employer to reemploy such person, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

(d) If the adjutant general of a State determines that it is impossible or unreasonable to reemploy a person who was a National Guard technician employed under section 709 of title 32, such person shall, upon application to the Director of the Office of Personnel Management, be ensured an offer of employment in an alternative position in a Federal executive agency on the basis described in subsection (b).

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3158.)

PRIOR PROVISIONS

A prior section 4314 was renumbered section 7614 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4315. Reemployment by certain Federal agencies

(a) The head of each agency referred to in section 2302(a)(2)(C)(ii) of title 5 shall prescribe procedures for ensuring that the rights under this chapter apply to the employees of such agency.

(b) In prescribing procedures under subsection (a), the head of an agency referred to in that subsection shall ensure, to the maximum extent practicable, that the procedures of the agency for reemploying persons who serve in the uniformed services provide for the reemployment of such persons in the agency in a manner similar to the manner of reemployment described in section 4313.

(c)(1) The procedures prescribed under subsection (a) shall designate an official at the agency who shall determine whether or not the reemployment of a person referred to in subsection (b) by the agency is impossible or unreasonable.

(2) Upon making a determination that the reemployment by the agency of a person referred to in subsection (b) is impossible or unreasonable, the official referred to in paragraph (1) shall notify the person and the Director of the Office of Personnel Management of such determination.

(3) A determination pursuant to this subsection shall not be subject to judicial review.

(4) The head of each agency referred to in subsection (a) shall submit to the Select Committee on Intelligence and the Committee on Veterans' Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Veterans' Affairs of the House of Representatives on an annual basis a report on the number of persons whose reemployment with the agency was determined under this subsection to be impossible or unreasonable during the year preceding the report, including the reason for each such determination.

(d)(1) Except as provided in this section, nothing in this section, section 4313, or section 4325 shall be construed to exempt any agency referred to in subsection (a) from compliance with any other substantive provision of this chapter.

(2) This section may not be construed—

(A) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter, alternative employment in the Federal Government under this chapter, or information relating to the rights and obligations of employee and Federal agencies under this chapter; or

(B) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

(e) The Director of the Office of Personnel Management shall ensure the offer of employment to a person in a position in a Federal executive agency on the basis described in subsection (b) if—

(1) the person was an employee of an agency referred to in section 2302(a)(2)(C)(ii) of title 5 at the time the person entered the service from which the person seeks reemployment under this section;

(2) the appropriate officer of the agency determines under subsection (c) that reemployment of the person by the agency is impossible or unreasonable; and

(3) the person submits an application to the Director for an offer of employment under this subsection.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3159.)

PRIOR PROVISIONS

A prior section 4315 was renumbered section 7615 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4316. Rights, benefits, and obligations of persons absent from employment for service in a uniformed service

(a) A person who is reemployed under this chapter is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

(b)(1) Subject to paragraphs (2) through (6), a person who is absent from a position of employment by reason of service in the uniformed services shall be—

(A) deemed to be on furlough or leave of absence while performing such service; and

(B) entitled to such other rights and benefits not determined by seniority as are generally provided by the employer of the person to employees having similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of such service or established while such person performs such service.

(2)(A) Subject to subparagraph (B), a person who—

(i) is absent from a position of employment by reason of service in the uniformed services, and

(ii) knowingly provides written notice of intent not to return to a position of employment after service in the uniformed service,

is not entitled to rights and benefits under paragraph (1)(B).

(B) For the purposes of subparagraph (A), the employer shall have the burden of proving that a person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and, in doing so, was aware of the specific rights and benefits to be lost under subparagraph (A).

(3) A person deemed to be on furlough or leave of absence under this subsection while serving in the uniformed services shall not be entitled under this subsection to any benefits to which the person would not otherwise be entitled if the person had remained continuously employed.

(4) Such person may be required to pay the employee cost, if any, of any funded benefit continued pursuant to paragraph (1) to the extent other employees on furlough or leave of absence are so required.

(5) The entitlement of a person to coverage under a health plan is provided for under section 4317.

(6) The entitlement of a person to a right or benefit under an employee pension benefit plan is provided for under section 4318.

(c) A person who is reemployed by an employer under this chapter shall not be discharged from such employment, except for cause—

(1) within one year after the date of such reemployment, if the person's period of service before the reemployment was more than 180 days; or

(2) within 180 days after the date of such reemployment, if the person's period of service before the reemployment was more than 30 days but less than 181 days.

(d) Any person whose employment with an employer is interrupted by a period of service in the uniformed services shall be permitted, upon request of that person, to use during such period of service any vacation, annual, or similar leave with pay accrued by the person before the commencement of such service. No employer may require any such person to use vacation, annual, or similar leave during such period of service.

(e)(1) An employer shall grant an employee who is a member of a reserve component an authorized leave of absence from a position of employment to allow that employee to perform funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

(2) For purposes of section 4312(e)(1) of this title, an employee who takes an authorized leave of absence under paragraph (1) is deemed to have notified the employer of the employee's intent to return to such position of employment.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3160; amended Pub. L. 104–275, title III, § 311(6), Oct. 9, 1996, 110 Stat. 3335; Pub. L. 106–419, title III, § 323(b), Nov. 1, 2000, 114 Stat. 1855.)

PRIOR PROVISIONS

A prior section 4316 was renumbered section 7616 of this title.

AMENDMENTS

2000—Subsec. (e). Pub. L. 106–419 added subsec. (e).

1996—Subsec. (d). Pub. L. 104–275 inserted at end "No employer may require any such person to use vacation, annual, or similar leave during such period of service."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–419 effective 180 days after Nov. 1, 2000, see section 323(c) of Pub. L. 106–419, set out as a note under section 4303 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that the provisions concerning insurance coverage (other than health) are effective with respect to furloughs or leaves of absence initiated on or after Oct. 13, 1994, and subsec. (b)(2) of this section is applicable only to the rights and benefits provided in subsec. (b)(1)(B) of this section and to persons who leave a position of employment for service in the uniformed services more than 60 days after Oct. 13, 1994, and not applicable to any other right or benefit of a person under this chapter, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4317. Health plans

(a)(1) In any case in which a person (or the person's dependents) has coverage under a health plan in connection with the person's position of employment, including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), and such person is absent from such position of employment by reason of service in the uniformed services, the plan shall provide that the person may elect to continue such coverage as provided in this subsection. The maximum period of coverage of a person and the person's dependents under such an election shall be the lesser of—

(A) the 24-month period beginning on the date on which the person's absence begins; or

(B) the day after the date on which the person fails to apply for or return to a position of employment, as determined under section 4312(e).

(2) A person who elects to continue health-plan coverage under this paragraph may be required to pay not more than 102 percent of the full premium under the plan (determined in the

same manner as the applicable premium under section 4980B(f)(4) of the Internal Revenue Code of 1986) associated with such coverage for the employer's other employees, except that in the case of a person who performs service in the uniformed services for less than 31 days, such person may not be required to pay more than the employee share, if any, for such coverage.

(3) In the case of a health plan that is a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability under the plan for employer contributions and benefits arising under this paragraph shall be allocated—

(A) by the plan in such manner as the plan sponsor shall provide; or

(B) if the sponsor does not provide—

(i) to the last employer employing the person before the period served by the person in the uniformed services, or

(ii) if such last employer is no longer functional, to the plan.

(b)(1) Except as provided in paragraph (2), in the case of a person whose coverage under a health plan was terminated by reason of service in the uniformed services, an exclusion or waiting period may not be imposed in connection with the reinstatement of such coverage upon reemployment under this chapter if an exclusion or waiting period would not have been imposed under a health plan had coverage of such person by such plan not been terminated as a result of such service. This paragraph applies to the person who is reemployed and to any individual who is covered by such plan by reason of the reinstatement of the coverage of such person.

(2) Paragraph (1) shall not apply to the coverage of any illness or injury determined by the Secretary of Veterans Affairs to have been incurred in, or aggravated during, performance of service in the uniformed services.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3161; amended Pub. L. 104–275, title III, § 311(7), Oct. 9, 1996, 110 Stat. 3335; Pub. L. 108–454, title II, § 201(a), Dec. 10, 2004, 118 Stat. 3605.)

REFERENCES IN TEXT

Sections 3(37) and 607(1) of the Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(1), (3), are classified to sections 1002(37) and 1167(1), respectively, of Title 29, Labor.

Section 4980B(f)(4) of the Internal Revenue Code of 1986, referred to in subsec. (a)(2), is classified to section 4980B(f)(4) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 4317 was renumbered section 7617 of this title.

AMENDMENTS

2004—Subsec. (a)(1)(A). Pub. L. 108–454 substituted "24-month period" for "18-month period".

1996—Subsec. (a). Pub. L. 104–275 substituted "(a)(1) In" for "(a)(1)(A) Subject to paragraphs (2) and (3), in", redesignated cls. (i) and (ii) of par. (1) as subpars. (A) and (B), respectively, redesignated former subpars. (B) and (C) as pars. (2) and (3), respectively, and in par. (3), redesignated cls. (i) and (ii) as subpars. (A) and (B), respectively, and subcls. (I) and (II) as cls. (i) and (ii), respectively.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title II, § 201(b), Dec. 10, 2004, 118 Stat. 3606, provided that: "The amendment made by subsection (a) [amending this section] shall apply to elections made under section 4317 of title 38, United States Code, on or after the date of the enactment of this Act [Dec. 10, 2004]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that a person on active duty on Oct. 13, 1994, or a family member or personal representative of such person, may, after Oct. 13, 1994, elect to reinstate or continue a health plan provided in this section, and the health plan shall remain in effect for the remaining portion of the 18-month period that began on the date of such person's separation from civilian employment or the period of the person's service in the uniformed service, whichever is of lesser duration, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4318. Employee pension benefit plans

(a)(1)(A) Except as provided in subparagraph (B), in the case of a right provided pursuant to an employee pension benefit plan (including those described in sections 3(2) and 3(33) of the Employee Retirement Income Security Act of 1974) or a right provided under any Federal or State law governing pension benefits for governmental employees, the right to pension benefits of a person reemployed under this chapter shall be determined under this section.

(B) In the case of benefits under the Thrift Savings Plan, the rights of a person reemployed under this chapter shall be those rights provided in section 8432b of title 5. The first sentence of this subparagraph shall not be construed to affect any other right or benefit under this chapter.

(2)(A) A person reemployed under this chapter shall be treated as not having incurred a break in service with the employer or employers maintaining the plan by reason of such person's period or periods of service in the uniformed services.

(B) Each period served by a person in the uniformed services shall, upon reemployment under this chapter, be deemed to constitute service with the employer or employers maintaining the plan for the purpose of determining the nonforfeitability of the person's accrued benefits and for the purpose of determining the accrual of benefits under the plan.

(b)(1) An employer reemploying a person under this chapter shall, with respect to a period of service described in subsection (a)(2)(B), be liable to an employee pension benefit plan for funding any obligation of the plan to provide the benefits described in subsection (a)(2) and shall allocate the amount of any employer contribution for the person in the same manner and to the same extent the allocation occurs for other employees during the period of service. For purposes of determining the amount of such liability and any obligation of the plan, earnings and forfeitures shall not be included. For purposes of determining the amount of such liability and for purposes of section 515 of the Employee Retirement Income Security Act of 1974 or any similar

Federal or State law governing pension benefits for governmental employees, service in the uniformed services that is deemed under subsection (a) to be service with the employer shall be deemed to be service with the employer under the terms of the plan or any applicable collective bargaining agreement. In the case of a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, any liability of the plan described in this paragraph shall be allocated—

(A) by the plan in such manner as the sponsor maintaining the plan shall provide; or

(B) if the sponsor does not provide—

(i) to the last employer employing the person before the period served by the person in the uniformed services, or

(ii) if such last employer is no longer functional, to the plan.

(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) only to the extent the person makes payment to the plan with respect to such contributions or deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a)(2)(B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services, such payment period not to exceed five years.

(3) For purposes of computing an employer's liability under paragraph (1) or the employee's contributions under paragraph (2), the employee's compensation during the period of service described in subsection (a)(2)(B) shall be computed—

(A) at the rate the employee would have received but for the period of service described in subsection (a)(2)(B), or

(B) in the case that the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 12-month period immediately preceding such period (or, if shorter, the period of employment immediately preceding such period).

(c) Any employer who reemploys a person under this chapter and who is an employer contributing to a multiemployer plan, as defined in section 3(37) of the Employee Retirement Income Security Act of 1974, under which benefits are or may be payable to such person by reason of the obligations set forth in this chapter, shall, within 30 days after the date of such reemployment, provide information, in writing, of such reemployment to the administrator of such plan.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3162; amended Pub. L. 104–275, title III, § 311(8), Oct. 9, 1996, 110 Stat. 3335.)

REFERENCES IN TEXT

Sections 3 and 515 of the Employee Retirement Income Security Act of 1974, referred to in subsecs. (a)(1)(A), (b)(1), and (c), are classified to sections 1002 and 1145, respectively, of Title 29, Labor.

Section 402(g)(3) of the Internal Revenue Code of 1986, referred to in subsec. (b)(2), is classified to section 402(g)(3) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 4318 was renumbered section 7618 of this title.

AMENDMENTS

1996—Subsec. (b)(2). Pub. L. 104–275 substituted ''services, such payment period'' for ''services,'' in last sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that an employee pension benefit plan not in compliance with this section or section 8(h)(1) of Pub. L. 103–353 on Oct. 13, 1994, has two years to come into compliance, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4319. Employment and reemployment rights in foreign countries

(a) LIABILITY OF CONTROLLING UNITED STATES EMPLOYER OF FOREIGN ENTITY.—If an employer controls an entity that is incorporated or otherwise organized in a foreign country, any denial of employment, reemployment, or benefit by such entity shall be presumed to be by such employer.

(b) INAPPLICABILITY TO FOREIGN EMPLOYER.—This subchapter does not apply to foreign operations of an employer that is a foreign person not controlled by an United States employer.

(c) DETERMINATION OF CONTROLLING EMPLOYER.—For the purpose of this section, the determination of whether an employer controls an entity shall be based upon the interrelations of operations, common management, centralized control of labor relations, and common ownership or financial control of the employer and the entity.

(d) EXEMPTION.—Notwithstanding any other provision of this subchapter, an employer, or an entity controlled by an employer, shall be exempt from compliance with any of sections 4311 through 4318 of this title with respect to an employee in a workplace in a foreign country, if compliance with that section would cause such employer, or such entity controlled by an employer, to violate the law of the foreign country in which the workplace is located.

(Added Pub. L. 105–368, title II, § 212(b)(1), Nov. 11, 1998, 112 Stat. 3331.)

EFFECTIVE DATE

Section applicable only with respect to causes of action arising after Nov. 11, 1998, see section 212(c) of Pub. L. 105–368, set out as an Effective Date of 1998 Amendment note under section 4303 of this title.

SUBCHAPTER III—PROCEDURES FOR ASSISTANCE, ENFORCEMENT, AND INVESTIGATION

§ 4321. Assistance in obtaining reemployment or other employment rights or benefits

The Secretary (through the Veterans' Employment and Training Service) shall provide assistance to any person with respect to the employment and reemployment rights and benefits to which such person is entitled under this chapter. In providing such assistance, the Secretary may request the assistance of existing Federal and State agencies engaged in similar or related activities and utilize the assistance of volunteers.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3164.)

PRIOR PROVISIONS

A prior section 4321 was renumbered section 7621 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4322. Enforcement of employment or reemployment rights

(a) A person who claims that—

(1) such person is entitled under this chapter to employment or reemployment rights or benefits with respect to employment by an employer; and

(2)(A) such employer has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter; or

(B) in the case that the employer is a Federal executive agency, such employer or the Office of Personnel Management has failed or refused, or is about to fail or refuse, to comply with the provisions of this chapter,

may file a complaint with the Secretary in accordance with subsection (b), and the Secretary shall investigate such complaint.

(b) Such complaint shall be in writing, be in such form as the Secretary may prescribe, include the name and address of the employer against whom the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

(c) The Secretary shall, upon request, provide technical assistance to a potential claimant with respect to a complaint under this subsection, and when appropriate, to such claimant's employer.

(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines as a result of the investigation that the action alleged in such complaint occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter.

(e) If the efforts of the Secretary with respect to any complaint filed under subsection (a) do not resolve the complaint, the Secretary shall notify the person who submitted the complaint of—

(1) the results of the Secretary's investigation; and

(2) the complainant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a State or private employer) or section 4324 (in the case of a person submitting a complaint against a Federal executive agency or the Office of Personnel Management).

(f) This subchapter does not apply to any action relating to benefits to be provided under the Thrift Savings Plan under title 5.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3164; amended Pub. L. 104–275, title III, § 311(9), Oct. 9, 1996, 110 Stat. 3335.)

PRIOR PROVISIONS

A prior section 4322 was renumbered section 7622 of this title.

AMENDMENTS

1996—Subsec. (d). Pub. L. 104–275, § 311(9)(A), inserted "attempt to" before "resolve".

Subsec. (e). Pub. L. 104–275, § 311(9)(B)(i), substituted "with respect to any complaint filed under subsection (a) do not resolve the complaint," for "with respect to a complaint under subsection (d) are unsuccessful," in introductory provisions.

Subsec. (e)(2). Pub. L. 104–275, § 311(9)(B)(ii), inserted "or the Office of Personnel Management" after "Federal executive agency".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4323. Enforcement of rights with respect to a State or private employer

(a) ACTION FOR RELIEF.—(1) A person who receives from the Secretary a notification pursuant to section 4322(e) of this title of an unsuccessful effort to resolve a complaint relating to a State (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person on whose behalf the complaint is referred is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for relief under this chapter for such person. In the case of such an action against a State (as an employer), the action shall be brought in the name of the United States as the plaintiff in the action.

(2) A person may commence an action for relief with respect to a complaint against a State

(as an employer) or a private employer if the person—

(A) has chosen not to apply to the Secretary for assistance under section 4322(a) of this title;

(B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1); or

(C) has been refused representation by the Attorney General with respect to the complaint under such paragraph.

(b) JURISDICTION.—(1) In the case of an action against a State (as an employer) or a private employer commenced by the United States, the district courts of the United States shall have jurisdiction over the action.

(2) In the case of an action against a State (as an employer) by a person, the action may be brought in a State court of competent jurisdiction in accordance with the laws of the State.

(3) In the case of an action against a private employer by a person, the district courts of the United States shall have jurisdiction of the action.

(c) VENUE.—(1) In the case of an action by the United States against a State (as an employer), the action may proceed in the United States district court for any district in which the State exercises any authority or carries out any function.

(2) In the case of an action against a private employer, the action may proceed in the United States district court for any district in which the private employer of the person maintains a place of business.

(d) REMEDIES.—(1) In any action under this section, the court may award relief as follows:

(A) The court may require the employer to comply with the provisions of this chapter.

(B) The court may require the employer to compensate the person for any loss of wages or benefits suffered by reason of such employer's failure to comply with the provisions of this chapter.

(C) The court may require the employer to pay the person an amount equal to the amount referred to in subparagraph (B) as liquidated damages, if the court determines that the employer's failure to comply with the provisions of this chapter was willful.

(2)(A) Any compensation awarded under subparagraph (B) or (C) of paragraph (1) shall be in addition to, and shall not diminish, any of the other rights and benefits provided for under this chapter.

(B) In the case of an action commenced in the name of the United States for which the relief includes compensation awarded under subparagraph (B) or (C) of paragraph (1), such compensation shall be held in a special deposit account and shall be paid, on order of the Attorney General, directly to the person. If the compensation is not paid to the person because of inability to do so within a period of 3 years, the compensation shall be covered into the Treasury of the United States as miscellaneous receipts.

(3) A State shall be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer under this section.

(e) EQUITY POWERS.—The court may use its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter.

(f) STANDING.—An action under this chapter may be initiated only by a person claiming rights or benefits under this chapter under subsection (a) or by the United States under subsection (a)(1).

(g) RESPONDENT.—In any action under this chapter, only an employer or a potential employer, as the case may be, shall be a necessary party respondent.

(h) FEES, COURT COSTS.—(1) No fees or court costs may be charged or taxed against any person claiming rights under this chapter.

(2) In any action or proceeding to enforce a provision of this chapter by a person under subsection (a)(2) who obtained private counsel for such action or proceeding, the court may award any such person who prevails in such action or proceeding reasonable attorney fees, expert witness fees, and other litigation expenses.

(i) INAPPLICABILITY OF STATE STATUTE OF LIMITATIONS.—No State statute of limitations shall apply to any proceeding under this chapter.

(j) DEFINITION.—In this section, the term ''private employer'' includes a political subdivision of a State.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3165; amended Pub. L. 104–275, title III, § 311(10), Oct. 9, 1996, 110 Stat. 3335; Pub. L. 105–368, title II, § 211(a), Nov. 11, 1998, 112 Stat. 3329.)

PRIOR PROVISIONS

A prior section 4323 was renumbered section 7623 of this title.

AMENDMENTS

1998—Pub. L. 105–368 amended section generally, substituting present provisions for provisions which had: in subsec. (a), authorized reference of complaint to Attorney General and commencement of action for relief on behalf of person whose complaint was referred; in subsec. (b), described appropriate venues in cases where defendant is State or private employer; and in subsec. (c), set forth provisions relating to jurisdiction, abridgement of rights, court and attorney fees, equity power of court, standing, respondents, statute of limitations, and remedies.

1996—Subsec. (a)(1). Pub. L. 104–275, § 311(10)(A), struck out ''of an unsuccessful effort to resolve a complaint'' after ''notification pursuant to section 4322(e)''.

Subsec. (a)(2)(A). Pub. L. 104–275, § 311(10)(B), substituted ''under section 4322(a)'' for ''regarding the complaint under section 4322(c)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 211(b), Nov. 11, 1998, 112 Stat. 3330, provided that:

''(1) Section 4323 of title 38, United States Code, as amended by subsection (a), shall apply to actions commenced under chapter 43 of such title on or after the date of the enactment of this Act [Nov. 11, 1998], and shall apply to actions commenced under such chapter before the date of the enactment of this Act that are not final on the date of the enactment of this Act, without regard to when the cause of action accrued.

''(2) In the case of any such action against a State (as an employer) in which a person, on the day before the date of the enactment of this Act [Nov. 11, 1998], is represented by the Attorney General under section

4323(a)(1) of such title as in effect on such day, the court shall upon motion of the Attorney General, substitute the United States as the plaintiff in the action pursuant to such section as amended by subsection (a).''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4324. Enforcement of rights with respect to Federal executive agencies

(a)(1) A person who receives from the Secretary a notification pursuant to section 4322(e) may request that the Secretary refer the complaint for litigation before the Merit Systems Protection Board. The Secretary shall refer the complaint to the Office of Special Counsel established by section 1211 of title 5.

(2)(A) If the Special Counsel is reasonably satisfied that the person on whose behalf a complaint is referred under paragraph (1) is entitled to the rights or benefits sought, the Special Counsel (upon the request of the person submitting the complaint) may appear on behalf of, and act as attorney for, the person and initiate an action regarding such complaint before the Merit Systems Protection Board.

(B) If the Special Counsel declines to initiate an action and represent a person before the Merit Systems Protection Board under subparagraph (A), the Special Counsel shall notify such person of that decision.

(b) A person may submit a complaint against a Federal executive agency or the Office of Personnel Management under this subchapter directly to the Merit Systems Protection Board if that person—

(1) has chosen not to apply to the Secretary for assistance under section 4322(a);

(2) has received a notification from the Secretary under section 4322(e);

(3) has chosen not to be represented before the Board by the Special Counsel pursuant to subsection (a)(2)(A); or

(4) has received a notification of a decision from the Special Counsel under subsection (a)(2)(B).

(c)(1) The Merit Systems Protection Board shall adjudicate any complaint brought before the Board pursuant to subsection (a)(2)(A) or (b), without regard as to whether the complaint accrued before, on, or after October 13, 1994. A person who seeks a hearing or adjudication by submitting such a complaint under this paragraph may be represented at such hearing or adjudication in accordance with the rules of the Board.

(2) If the Board determines that a Federal executive agency or the Office of Personnel Management has not complied with the provisions of this chapter relating to the employment or reemployment of a person by the agency, the Board shall enter an order requiring the agency or Office to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by such person by reason of such lack of compliance.

(3) Any compensation received by a person pursuant to an order under paragraph (2) shall be in addition to any other right or benefit provided for by this chapter and shall not diminish any such right or benefit.

(4) If the Board determines as a result of a hearing or adjudication conducted pursuant to a complaint submitted by a person directly to the Board pursuant to subsection (b) that such person is entitled to an order referred to in paragraph (2), the Board may, in its discretion, award such person reasonable attorney fees, expert witness fees, and other litigation expenses.

(d)(1) A person adversely affected or aggrieved by a final order or decision of the Merit Systems Protection Board under subsection (c) may petition the United States Court of Appeals for the Federal Circuit to review the final order or decision. Such petition and review shall be in accordance with the procedures set forth in section 7703 of title 5.

(2) Such person may be represented in the Federal Circuit proceeding by the Special Counsel unless the person was not represented by the Special Counsel before the Merit Systems Protection Board regarding such order or decision.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3166; amended Pub. L. 104–275, title III, § 311(11), Oct. 9, 1996, 110 Stat. 3336; Pub. L. 105–368, title II, § 213(a), Nov. 11, 1998, 112 Stat. 3331.)

PRIOR PROVISIONS

A prior section 4324 was renumbered section 7624 of this title.

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105–368 inserted '', without regard as to whether the complaint accrued before, on, or after October 13, 1994'' before period at end of first sentence.

1996—Subsec. (a)(1). Pub. L. 104–275, § 311(11)(A), struck out ''of an unsuccessful effort to resolve a complaint relating to a Federal executive agency'' after ''notification pursuant to section 4322(e)''.

Subsec. (b). Pub. L. 104–275, § 311(11)(B)(i), inserted ''or the Office of Personnel Management'' after ''Federal executive agency'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–275, § 311(11)(B)(ii), substituted ''under section 4322(a)'' for ''regarding a complaint under section 4322(c)''.

Subsec. (c)(2). Pub. L. 104–275, § 311(11)(C), inserted ''or the Office of Personnel Management'' after ''Federal executive agency'' and substituted ''Office to comply'' for ''employee to comply''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 213(b), Nov. 11, 1998, 112 Stat. 3332, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to complaints filed with the Merit Systems Protection Board on or after October 13, 1994.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period

beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4325. Enforcement of rights with respect to certain Federal agencies

(a) This section applies to any person who alleges that—

(1) the reemployment of such person by an agency referred to in subsection (a) of section 4315 was not in accordance with procedures for the reemployment of such person under subsection (b) of such section; or

(2) the failure of such agency to reemploy the person under such section was otherwise wrongful.

(b) Any person referred to in subsection (a) may submit a claim relating to an allegation referred to in that subsection to the inspector general of the agency which is the subject of the allegation. The inspector general shall investigate and resolve the allegation pursuant to procedures prescribed by the head of the agency.

(c) In prescribing procedures for the investigation and resolution of allegations under subsection (b), the head of an agency shall ensure, to the maximum extent practicable, that the procedures are similar to the procedures for investigating and resolving complaints utilized by the Secretary under section 4322(d).

(d) This section may not be construed—

(1) as prohibiting an employee of an agency referred to in subsection (a) from seeking information from the Secretary regarding assistance in seeking reemployment from the agency under this chapter or information relating to the rights and obligations of employees and Federal agencies under this chapter; or

(2) as prohibiting such an agency from voluntarily cooperating with or seeking assistance in or of clarification from the Secretary or the Director of the Office of Personnel Management of any matter arising under this chapter.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3167; amended Pub. L. 104–275, title III, § 311(12), Oct. 9, 1996, 110 Stat. 3336.)

PRIOR PROVISIONS

A prior section 4325 was renumbered section 7625 of this title.

AMENDMENTS

1996—Subsec. (d)(1). Pub. L. 104–275 struck out ", alternative employment in the Federal Government under this chapter," before "or information relating to the rights and obligations" and substituted "employees and" for "employee and".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, except that provisions necessary for implementation of section 4311 of this title are effective Oct. 13, 1994, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4326. Conduct of investigation; subpoenas

(a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to and the right to interview persons with information relevant to the investigation and shall have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation.

(b) In carrying out any investigation under this chapter, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

(c) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or employer to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this chapter and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

(d) Subsections (b) and (c) shall not apply to the legislative branch or the judicial branch of the United States.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3167; amended Pub. L. 104–275, title III, § 311(13), Oct. 9, 1996, 110 Stat. 3336.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–275 inserted "have reasonable access to and the right to interview persons with information relevant to the investigation and shall" after "at all reasonable times,".

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–275 effective Oct. 13, 1994, see section 313 of Pub. L. 104–275, set out as a note under section 4301 of this title.

EFFECTIVE DATE

Section effective Oct. 13, 1994, and applicable to any matter pending with Secretary of Labor under former section 4305 of this title as of that date, see section 8(e) of Pub. L. 103–353, set out as a note under section 4301 of this title.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

§ 4331. Regulations

(a) The Secretary (in consultation with the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to States, local governments, and private employers.

(b)(1) The Director of the Office of Personnel Management (in consultation with the Sec-

retary and the Secretary of Defense) may prescribe regulations implementing the provisions of this chapter with regard to the application of this chapter to Federal executive agencies (other than the agencies referred to in paragraph (2)) as employers. Such regulations shall be consistent with the regulations pertaining to the States as employers and private employers, except that employees of the Federal Government may be given greater or additional rights.

(2) The following entities may prescribe regulations to carry out the activities of such entities under this chapter:

(A) The Merit Systems Protection Board.

(B) The Office of Special Counsel.

(C) The agencies referred to in section 2303(a)(2)(C)(ii)[1] of title 5.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3168.)

PRIOR PROVISIONS

A prior section 4331 was renumbered section 7631 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4332. Reports

The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1) and no later than February 1, 2005, and annually thereafter, transmit to the Congress, a report containing the following matters for the fiscal year ending before such February 1:

(1) The number of cases reviewed by the Department of Labor under this chapter during the fiscal year for which the report is made.

(2) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year.

(3) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

(4) The nature and status of each case reported on pursuant to paragraph (1), (2), or (3).

(5) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

(6) Recommendations for administrative or legislative action that the Secretary, the Attorney General, or the Special Counsel considers necessary for the effective implementation of this chapter, including any action that could be taken to encourage mediation, before claims are filed under this chapter, between employers and persons seeking employment or reemployment.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3168; amended Pub. L. 108–454, title II, § 202, Dec. 10, 2004, 118 Stat. 3606.)

PRIOR PROVISIONS

A prior section 4332 was renumbered section 7632 of this title.

AMENDMENTS

2004—Pub. L. 108–454 substituted ''no later than February 1, 2005, and annually thereafter'' for ''no later than February 1, 1996, and annually thereafter through 2000'' in introductory provisions.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4333. Outreach

The Secretary, the Secretary of Defense, and the Secretary of Veterans Affairs shall take such actions as such Secretaries determine are appropriate to inform persons entitled to rights and benefits under this chapter and employers of the rights, benefits, and obligations of such persons and such employers under this chapter.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3169.)

PRIOR PROVISIONS

A prior section 4333 was renumbered section 7633 of this title.

EFFECTIVE DATE

Section effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as a note under section 4301 of this title.

§ 4334. Notice of rights and duties

(a) REQUIREMENT TO PROVIDE NOTICE.—Each employer shall provide to persons entitled to rights and benefits under this chapter a notice of the rights, benefits, and obligations of such persons and such employers under this chapter. The requirement for the provision of notice under this section may be met by the posting of the notice where employers customarily place notices for employees.

(b) CONTENT OF NOTICE.—The Secretary shall provide to employers the text of the notice to be provided under this section.

(Added Pub. L. 108–454, title II, § 203(a), Dec. 10, 2004, 118 Stat. 3606.)

PRIOR PROVISIONS

Prior sections 4334 to 4336, and 4351 to 4355 were renumbered sections 7634 to 7636, and 7651 to 7655 of this title, respectively.

A prior section 5001 was renumbered section 8101 of this title.

Another prior section 5001, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1251; Pub. L. 88–450, § 1, Aug. 19, 1964, 78 Stat. 500; Pub. L. 89–311, § 8, Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93–82, title III, § 301, Aug. 2, 1973, 87 Stat. 194; Pub. L. 94–581, title I, § 114, title II, §§ 206(a), 210(e)(1), Oct. 21, 1976, 90 Stat. 2852, 2859, 2864; Pub. L. 95–201, § 4(c), Nov. 23, 1977, 91 Stat. 1431, relating generally to the authority of the Administrator to establish hospitals and domiciliary facilities for veterans, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8102 of this title.

A prior section 5002 was renumbered section 8102 of this title.

Another prior section 5002, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 94–581, title II, § 210(e)(2), Oct.

[1] So in original. Probably should be section ''2302(a)(2)(C)(ii)''.

21, 1976, 90 Stat. 2865, relating to the construction and repair of hospitals, domiciliaries, and outpatient dispensary facilities, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8103 of this title.

A prior section 5003 was renumbered section 8103 of this title.

Another prior section 5003, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1252, relating to the use by the Veterans' Administration of Armed Forces' facilities, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8111 of this title.

A prior section 5004 was renumbered section 8104 of this title.

Another prior section 5004, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 152; Pub. L. 89–785, title II, § 201(a), Nov. 7, 1966, 80 Stat. 1372; Pub. L. 94–581, title II, § 210(e)(3), Oct. 21, 1976, 90 Stat. 2865, relating to garage and parking facilities, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8109 of this title.

A prior section 5005 was renumbered section 8105 of this title.

Another prior section 5005, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1252; Pub. L. 94–581, title II, § 210(e)(4), Oct. 21, 1976, 90 Stat. 2865, relating to the acceptance by the President of buildings, structures, equipment, or grounds from States or other political subdivisions or from persons, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8115 of this title.

A prior section 5006 was renumbered section 8106 of this title.

Another prior section 5006, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1253, relating to property formerly owned by the National Home for Disabled Volunteer Soldiers, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8113 of this title.

A prior section 5007 was renumbered section 8107 of this title.

Another prior section 5007, added Pub. L. 93–82, title III, § 302(1), Aug. 2, 1973, 87 Stat. 195, and amended Pub. L. 94–581, title II, § 210(e)(5), Oct. 21, 1976, 90 Stat. 2865, relating to partial relinquishment of legislative jurisdiction, was omitted in the general revision of subchapter I of chapter 81 of this title by Pub. L. 96–22. See section 8112 of this title.

Prior sections 5008 to 5011 were renumbered sections 8108 to 8111 of this title, respectively.

Another prior section 5011 was renumbered section 5021 of this title.

Prior sections 5011A and 5012 were renumbered sections 8111A and 8112 of this title, respectively.

Another prior section 5012 was renumbered section 5022 of this title.

A prior section 5013 was renumbered section 8113 of this title.

Another prior section 5013 was renumbered section 5023 of this title.

A prior section 5014 was renumbered section 8114 of this title.

Another prior section 5014 was renumbered section 5024 of this title.

Prior sections 5015, 5016, 5021 to 5025, 5031 to 5037, and 5051 to 5056 were renumbered sections 8115, 8116, 8121 to 8125, 8131 to 8137, and 8151 to 8156 of this title, respectively.

A prior section 5057, added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1376, directed Administrator to submit to Congress not more than sixty days after end of each fiscal year separate reports on activities carried out under sections 5053 and 5054 of this title, prior to repeal by Pub. L. 99–576, title II, § 231(c)(2)(A), Oct. 28, 1986, 100 Stat. 3264.

Prior sections 5070, 5071 to 5074, 5081 to 5083, 5091 to 5093, and 5096 were renumbered sections 8201, 8211 to 8214, 8221 to 8223, 8231 to 8233, and 8241 of this title, respectively.

EFFECTIVE DATE

Pub. L. 108–454, title II, § 203(c), Dec. 10, 2004, 118 Stat. 3606, provided that:

''(1) Not later than the date that is 90 days after the date of the enactment of this Act [Dec. 10, 2004], the Secretary of Labor shall make available to employers the notice required under section 4334 of title 38, United States Code, as added by subsection (a).

''(2) The amendments made by this section [enacting this section] shall apply to employers under chapter 43 of title 38, United States Code, on and after the first date referred to in paragraph (1).''

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

Chap.		Sec.
51.	Claims, Effective Dates, and Payments	5100
53.	Special Provisions Relating to Benefits	5301
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AMENDMENTS

2002—Pub. L. 107–330, title III, § 308(g)(1)(A), Dec. 6, 2002, 116 Stat. 2828, substituted ''5100'' for ''5101'' in item for chapter 51.

1991—Pub. L. 102–40, title IV, § 402(c)(2), May 7, 1991, 105 Stat. 239, substituted ''5101'' for ''3001'' in item for chapter 51, ''5301'' for ''3101'' in item for chapter 53, ''5501'' for ''3201'' in item for chapter 55, ''5701'' for ''3301'' in item for chapter 57, ''5901'' for ''3401'' in item for chapter 59, and ''6101'' for ''3501'' in item for chapter 61.

1988—Pub. L. 100–687, div. A, title I, § 103(c)(1), Nov. 18, 1988, 102 Stat. 4107, substituted ''Claims'' for ''Applications'' in item for chapter 51.

CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS

SUBCHAPTER I—CLAIMS

Sec.	
5100.	Definition of ''claimant''.
5101.	Claims and forms.
5102.	Application forms furnished upon request; notice to claimants of incomplete applications.
5103.	Notice to claimants of required information and evidence.
5103A.	Duty to assist claimants.
5104.	Decisions and notices of decisions.
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SUBCHAPTER II—EFFECTIVE DATES

5110.	Effective dates of awards.
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5120.	Payment of benefits; delivery.
5121.	Payment of certain accrued benefits upon death of beneficiary.[1]
5122.	Cancellation of checks mailed to deceased payees.

[1] So in original. Does not conform to section catchline.

5123. Rounding down of pension rates.
5124. Acceptance of claimant's statement as proof of relationship.
5125. Acceptance of reports of private physician examinations.
5126. Benefits not to be denied based on lack of mailing address.

AMENDMENTS

2003—Pub. L. 108–183, title VII, § 707(a)(2), Dec. 16, 2003, 117 Stat. 2673, added item 5109B.

2000—Pub. L. 106–475, § 6, Nov. 9, 2000, 114 Stat. 2099, added items 5100, 5102 to 5103A, 5107, and 5126, and struck out former items 5102 ''Application forms furnished upon request'', 5103 ''Incomplete applications'', and 5107 ''Burden of proof; benefit of the doubt''.

Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–360, directed amendment of table of sections by striking the item relating to section 5017 and inserting item 5107 ''Assistance to claimants; benefit of the doubt; burden of proof''. Pub. L. 106–419, title I, § 104(c)(2), Nov. 1, 2000, 114 Stat. 1828, provided that, as of the enactment of Pub. L. 106–419, the amendments made by Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(b)], were deemed for all purposes not to have taken effect and that Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(b)], ceased to be in effect.

1997—Pub. L. 105–111, § 1(a)(2), Nov. 21, 1997, 111 Stat. 2271, added item 5109A.

1994—Pub. L. 103–446, title III, § 301(c), Nov. 2, 1994, 108 Stat. 4658, added items 5124 and 5125.

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3001 to 3023 as 5101 to 5123, respectively.

1989—Pub. L. 101–237, title I, § 115(a)(2), Dec. 18, 1989, 103 Stat. 2066, added item 3004.

1988—Pub. L. 100–687, div. A, title I, § 103(a)(2), (c)(2), (3), Nov. 18, 1988, 102 Stat. 4107, 4108, substituted ''CLAIMS'' for ''APPLICATIONS'' in heading for chapter and in item for subchapter I and added items 3007, 3008, and 3009.

1982—Pub. L. 97–253, title IV, §§ 401(a)(2), 403(a)(2), Sept. 8, 1982, 96 Stat. 802, added items 3011 and 3023, respectively.

1977—Pub. L. 95–117, title IV, § 402(b)(2), Oct. 3, 1977, 91 Stat. 1066, struck out ''by check'' after ''benefit'' in item 3020.

1976—Pub. L. 94–432, title IV, § 403(1), Sept. 30, 1976, 90 Stat. 1372, added item 3006.

1962—Pub. L. 87–825, § 5(b), Oct. 15, 1962, 76 Stat. 950, struck out items 3004 and 3011.

SUBCHAPTER I—CLAIMS

AMENDMENTS

1988—Pub. L. 100–687, div. A, title I, § 103(c)(4), Nov. 18, 1988, 102 Stat. 4108, substituted ''CLAIMS'' for ''APPLICATIONS'' in heading for subchapter I.

§ 5100. Definition of "claimant"

For purposes of this chapter, the term ''claimant'' means any individual applying for, or submitting a claim for, any benefit under the laws administered by the Secretary.

(Added Pub. L. 106–475, § 2, Nov. 9, 2000, 114 Stat. 2096.)

§ 5101. Claims and forms

(a) A specific claim in the form prescribed by the Secretary (or jointly with the Commissioner of Social Security, as prescribed by section 5105 of this title) must be filed in order for benefits to be paid or furnished to any individual under the laws administered by the Secretary.

(b)(1) A claim by a surviving spouse or child for compensation or dependency and indemnity compensation shall also be considered to be a claim for death pension and accrued benefits, and a claim by a surviving spouse or child for death pension shall be considered to be a claim for death compensation (or dependency and indemnity compensation) and accrued benefits.

(2) A claim by a parent for compensation or dependency and indemnity compensation shall also be considered to be a claim for accrued benefits.

(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.

(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1225, § 3001; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 99–576, title VII, § 701(61), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101–508, title VIII, § 8053(a), Nov. 5, 1990, 104 Stat. 1388–352; renumbered § 5101 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 108–183, title VII, § 708(c)(2), Dec. 16, 2003, 117 Stat. 2674.)

PRIOR PROVISIONS

Prior section 5101 was renumbered section 8301 of this title.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3001 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' after ''prescribed by the''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''5105'' for ''3005''.

1990—Subsec. (c). Pub. L. 101–508 added subsec. (c).

1986—Subsec. (b)(1). Pub. L. 99–576 substituted ''surviving spouse or'' for ''widow or'' in two places.

1982—Subsec. (a). Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS

Pub. L. 108–183, title VII, § 704, Dec. 16, 2003, 117 Stat. 2672, provided that:

''(a) AUTHORITY.—Using appropriated funds, other than funds available for compensation and pension, the Secretary of Veterans Affairs may provide for the conduct of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary by persons other than Department of Veterans Affairs employees. The authority under this section is in addition to the authority provided in section 504(b) of the Veterans' Benefits Improvement Act of 1996 (Public Law 104–275; 38 U.S.C. 5101 note).

''(b) PERFORMANCE BY CONTRACT.—Examinations under the authority provided in subsection (a) shall be conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits.

''(c) EXPIRATION.—The authority in subsection (a) shall expire on December 31, 2009. No examination may be carried out under the authority provided in that subsection after that date.

''(d) REPORT.—Not later than four years after the date of the enactment of this Act [Dec. 16, 2003], the Secretary shall submit to Congress a report on the use of the authority provided in subsection (a). The Secretary shall include in the report an assessment of the effect of examinations under that authority on the cost, timeliness, and thoroughness of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary.''

PILOT PROGRAM FOR USE OF CONTRACT PHYSICIANS FOR DISABILITY EXAMINATIONS

Pub. L. 104–275, title V, § 504, Oct. 9, 1996, 110 Stat. 3341, provided that:

''(a) AUTHORITY.—The Secretary of Veterans Affairs, acting through the Under Secretary for Benefits, may conduct a pilot program under this section under which examinations with respect to medical disability of applicants for benefits under laws administered by the Secretary that are carried out through the Under Secretary for Benefits may be made by persons other than employees of the Department of Veterans Affairs. Any such examination shall be performed pursuant to contracts entered into by the Under Secretary for Benefits with those persons.

''(b) LIMITATION.—The Secretary may carry out the pilot program under this section through not more than 10 regional offices of the Department of Veterans Affairs.

''(c) SOURCE OF FUNDS.—Payments for contracts under the pilot program under this section shall be made from amounts available to the Secretary of Veterans Affairs for payment of compensation and pensions.

''(d) REPORT TO CONGRESS.—Not later than three years after the date of the enactment of this Act [Oct. 9, 1996], the Secretary shall submit to the Congress a report on the effect of the use of the authority provided by subsection (a) on the cost, timeliness, and thoroughness of medical disability examinations.''

EXPEDITED TREATMENT OF REMANDED CLAIMS

Pub. L. 103–446, title III, § 302, Nov. 2, 1994, 108 Stat. 4658, as amended by Pub. L. 105–368, title V, § 512(c), Nov. 11, 1998, 112 Stat. 3342, provided that Secretary of Veterans Affairs was to take necessary actions to provide for expeditious treatment, by the Board of Veterans' Appeals and by regional offices of the Veterans Benefits Administration, of any claim that had been remanded by the Board of Veterans' Appeals or by the United States Court of Appeals for Veterans Claims for additional development or other appropriate action, prior to repeal by Pub. L. 108–183, title VII, § 707(c), Dec. 16, 2003, 117 Stat. 2673.

VETERANS' CLAIMS ADJUDICATION COMMISSION

Pub. L. 103–446, title IV, Nov. 2, 1994, 108 Stat. 4659, as amended by Pub. L. 104–275, title V, § 503(a), Oct. 9, 1996, 110 Stat. 3341, established Veterans' Claims Adjudication Commission which was directed to conduct comprehensive evaluation and assessment of Department of Veterans Affairs system for disposition of claims for veterans benefits and of system for delivery of such benefits, together with any related issues determined to be relevant to study, for purpose of determining means of increasing efficiency of system, means of reducing number of claims under system for which final disposition is pending, and means of enhancing ability of Department of Veterans Affairs to achieve final determination regarding claims under system in prompt and appropriate manner, and further provided for membership and powers of Commission, personnel matters, definitions and funding, and for submission of preliminary report to Secretary of Veterans Affairs and Congress not later than one year after Nov. 2, 1994, submission of final report not later than Dec. 31, 1996, and for termination of Commission 90 days after submission of final report.

§ 5102. Application forms furnished upon request; notice to claimants of incomplete applications

(a) FURNISHING FORMS.—Upon request made by any person claiming or applying for, or expressing an intent to claim or apply for, a benefit under the laws administered by the Secretary, the Secretary shall furnish such person, free of all expense, all instructions and forms necessary to apply for that benefit.

(b) INCOMPLETE APPLICATIONS.—If a claimant's application for a benefit under the laws administered by the Secretary is incomplete, the Secretary shall notify the claimant and the claimant's representative, if any, of the information necessary to complete the application.

(c) TIME LIMITATION.—(1) If information that a claimant and the claimant's representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date such notice is sent, no benefit may be paid or furnished by reason of the claimant's application.

(2) This subsection shall not apply to any application or claim for Government life insurance benefits.

(Added Pub. L. 106–475, § 3(a), Nov. 9, 2000, 114 Stat. 2096; amended Pub. L. 108–183, title VII, § 701(a), Dec. 16, 2003, 117 Stat. 2670.)

PRIOR PROVISIONS

A prior section 5102, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1225, § 3002; renumbered § 5102, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405, related to application forms, prior to repeal by Pub. L. 106–475, § 3(a), Nov. 9, 2000, 114 Stat. 2096.

Another prior section 5102 was renumbered section 8302 of this title.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–183 added subsec. (c).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title VII, § 701(c), Dec. 16, 2003, 117 Stat. 2670, provided that: ''The amendments made by this section [amending this section and section 5103 of this title] shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106–475; 114 Stat. 2096).''

§ 5103. Notice to claimants of required information and evidence

(a) REQUIRED INFORMATION AND EVIDENCE.—Upon receipt of a complete or substantially complete application, the Secretary shall notify the claimant and the claimant's representative, if any, of any information, and any medical or lay evidence, not previously provided to the Secretary that is necessary to substantiate the claim. As part of that notice, the Secretary shall indicate which portion of that information and evidence, if any, is to be provided by the claimant and which portion, if any, the Secretary, in accordance with section 5103A of this title and any other applicable provisions of law, will attempt to obtain on behalf of the claimant.

(b) TIME LIMITATION.—(1) In the case of information or evidence that the claimant is notified under subsection (a) is to be provided by the claimant, such information or evidence must be received by the Secretary within one year from the date such notice is sent.

(2) This subsection shall not apply to any application or claim for Government life insurance benefits.

(3) Nothing in paragraph (1) shall be construed to prohibit the Secretary from making a decision on a claim before the expiration of the period referred to in that subsection.

(Added Pub. L. 106–475, § 3(a), Nov. 9, 2000, 114 Stat. 2096; amended Pub. L. 107–14, § 8(a)(12), June 5, 2001, 115 Stat. 35; Pub. L. 108–183, title VII, § 701(b), Dec. 16, 2003, 117 Stat. 2670.)

PRIOR PROVISIONS

A prior section 5103, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1225, § 3003; Pub. L. 99–570, title XI, § 11007(a)(1), Oct. 27, 1986, 100 Stat. 3207–170; renumbered § 5103, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405, related to incomplete applications, prior to repeal by Pub. L. 106–475, § 3(a), Nov. 9, 2000, 114 Stat. 2096.

Another prior section 5103 was renumbered section 8303 of this title.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–183, § 701(b)(1), substituted "such information or evidence must be received by the Secretary within one year from the date such notice is sent" for "if such information or evidence is not received by the Secretary within one year from the date of such notification, no benefit may be paid or furnished by reason of the claimant's application".

Subsec. (b)(3). Pub. L. 108–183, § 701(b)(2), added par. (3).

2001—Subsec. (b)(1). Pub. L. 107–14 substituted "one year" for "1 year".

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment effective as if enacted Nov. 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000, Pub. L. 106–475, see section 701(c) of Pub. L. 108–183, set out as a note under section 5102 of this title.

READJUDICATION OF CERTAIN CLAIMS; NOTICE

Pub. L. 108–183, title VII, § 701(d), (e), Dec. 16, 2003, 117 Stat. 2670, 2671, provided that:

"(d) PROCEDURES FOR READJUDICATION OF CERTAIN CLAIMS.—(1) The Secretary of Veterans Affairs shall readjudicate a claim of a qualified claimant if the request for such readjudication is received not later than the end of the one-year period that begins on the date of the enactment of this Act [Dec. 16, 2003].

"(2) For purposes of this subsection, a claimant is qualified within the meaning of paragraph (1) if the claimant—

"(A) received notice under section 5103(a) of title 38, United States Code, requesting information or evidence to substantiate a claim;

"(B) did not submit such information or evidence within a year after the date such notice was sent;

"(C) did not file a timely appeal to the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims; and

"(D) submits such information or evidence during the one-year period referred to in paragraph (1).

"(3) If the decision of the Secretary on a readjudication under this subsection is in favor of the qualified claimant, the award of the grant shall take effect as if the prior decision by the Secretary on the claim had not been made.

"(4) Nothing in this subsection shall be construed to establish a duty on the part of the Secretary to identify or readjudicate any claim that—

"(A) is not submitted during the one-year period referred to in paragraph (1); or

"(B) has been the subject of a timely appeal to the Board of Veterans' Appeals or the United States Court of Appeals for Veterans Claims.

"(e) CONSTRUCTION ON PROVIDING RENOTIFICATION.—Nothing in this section [amending this section and section 5102 of this title and enacting provisions set out as a note under section 5102 of this title], or the amendments made by this section, shall be construed to require the Secretary of Veterans Affairs—

"(1) to provide notice under section 5103(a) of such title with respect to a claim insofar as the Secretary has previously provided such notice; or

"(2) to provide for a special notice with respect to this section and the amendments made by this section."

§ 5103A. Duty to assist claimants

(a) DUTY TO ASSIST.—(1) The Secretary shall make reasonable efforts to assist a claimant in obtaining evidence necessary to substantiate the claimant's claim for a benefit under a law administered by the Secretary.

(2) The Secretary is not required to provide assistance to a claimant under this section if no reasonable possibility exists that such assistance would aid in substantiating the claim.

(3) The Secretary may defer providing assistance under this section pending the submission by the claimant of essential information missing from the claimant's application.

(b) ASSISTANCE IN OBTAINING RECORDS.—(1) As part of the assistance provided under subsection (a), the Secretary shall make reasonable efforts to obtain relevant records (including private records) that the claimant adequately identifies to the Secretary and authorizes the Secretary to obtain.

(2) Whenever the Secretary, after making such reasonable efforts, is unable to obtain all of the relevant records sought, the Secretary shall notify the claimant that the Secretary is unable to obtain records with respect to the claim. Such a notification shall—

(A) identify the records the Secretary is unable to obtain;

(B) briefly explain the efforts that the Secretary made to obtain those records; and

(C) describe any further action to be taken by the Secretary with respect to the claim.

(3) Whenever the Secretary attempts to obtain records from a Federal department or agency

under this subsection or subsection (c), the efforts to obtain those records shall continue until the records are obtained unless it is reasonably certain that such records do not exist or that further efforts to obtain those records would be futile.

(c) OBTAINING RECORDS FOR COMPENSATION CLAIMS.—In the case of a claim for disability compensation, the assistance provided by the Secretary under subsection (b) shall include obtaining the following records if relevant to the claim:

(1) The claimant's service medical records and, if the claimant has furnished the Secretary information sufficient to locate such records, other relevant records pertaining to the claimant's active military, naval, or air service that are held or maintained by a governmental entity.

(2) Records of relevant medical treatment or examination of the claimant at Department health-care facilities or at the expense of the Department, if the claimant furnishes information sufficient to locate those records.

(3) Any other relevant records held by any Federal department or agency that the claimant adequately identifies and authorizes the Secretary to obtain.

(d) MEDICAL EXAMINATIONS FOR COMPENSATION CLAIMS.—(1) In the case of a claim for disability compensation, the assistance provided by the Secretary under subsection (a) shall include providing a medical examination or obtaining a medical opinion when such an examination or opinion is necessary to make a decision on the claim.

(2) The Secretary shall treat an examination or opinion as being necessary to make a decision on a claim for purposes of paragraph (1) if the evidence of record before the Secretary, taking into consideration all information and lay or medical evidence (including statements of the claimant)—

(A) contains competent evidence that the claimant has a current disability, or persistent or recurrent symptoms of disability; and

(B) indicates that the disability or symptoms may be associated with the claimant's active military, naval, or air service; but

(C) does not contain sufficient medical evidence for the Secretary to make a decision on the claim.

(e) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(f) RULE WITH RESPECT TO DISALLOWED CLAIMS.—Nothing in this section shall be construed to require the Secretary to reopen a claim that has been disallowed except when new and material evidence is presented or secured, as described in section 5108 of this title.

(g) OTHER ASSISTANCE NOT PRECLUDED.—Nothing in this section shall be construed as precluding the Secretary from providing such other assistance under subsection (a) to a claimant in substantiating a claim as the Secretary considers appropriate.

(Added Pub. L. 106–475, § 3(a), Nov. 9, 2000, 114 Stat. 2097.)

§ 5104. Decisions and notices of decisions

(a) In the case of a decision by the Secretary under section 511 of this title affecting the provision of benefits to a claimant, the Secretary shall, on a timely basis, provide to the claimant (and to the claimant's representative) notice of such decision. The notice shall include an explanation of the procedure for obtaining review of the decision.

(b) In any case where the Secretary denies a benefit sought, the notice required by subsection (a) shall also include (1) a statement of the reasons for the decision, and (2) a summary of the evidence considered by the Secretary.

(Added Pub. L. 101–237, title I, § 115(a)(1), Dec. 18, 1989, 103 Stat. 2065, § 3004; renumbered § 5104, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–54, § 14(d)(1), June 13, 1991, 105 Stat. 285; Pub. L. 103–446, title XII, § 1201(d)(15), Nov. 2, 1994, 108 Stat. 4684.)

PRIOR PROVISIONS

Prior section 5104 was renumbered section 8304 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 substituted ''section 511'' for ''section 211(a)''.

1991—Pub. L. 102–40 renumbered section 3004 of this title as this section.

Pub. L. 102–54 amended section as in effect immediately before enactment of Pub. L. 102–40 by striking out ''(1)'' after ''(a)'' and substituting ''(b)'' for ''(2)'', ''subsection (a)'' for ''paragraph (1) of this subsection'', ''(1)'' for ''(A)'', and ''(2)'' for ''(B)''.

EFFECTIVE DATE

Section 115(b) of Pub. L. 101–237 provided that: ''Section 3004 [now 5104] of title 38, United States Code, as added by subsection (a), shall apply with respect to decisions by the Secretary of Veterans Affairs made after January 31, 1990.''

§ 5105. Joint applications for social security and dependency and indemnity compensation

(a) The Secretary and the Commissioner of Social Security shall jointly prescribe forms for use by survivors of members and former members of the uniformed services in filing application for benefits under chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). Each such form shall request information sufficient to constitute an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.).

(b) When an application on such a form is filed with either the Secretary or the Commissioner of Social Security, it shall be deemed to be an application for benefits under both chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.). A copy of each such application filed with either the Secretary or the Commissioner, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary or the Commissioner with such application, and which may be needed by the other official in connection therewith, shall be transmitted by the Secretary or the Commissioner receiving the application to the other of-

ficial. The preceding sentence shall not prevent the Secretary and the Commissioner of Social Security from requesting the applicant, or any other individual, to furnish such additional information as may be necessary for purposes of chapter 13 of this title and title II of the Social Security Act (42 U.S.C. 401 et seq.), respectively.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1226, § 3005; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98–160, title VII, § 702(16), Nov. 21, 1983, 97 Stat. 1010; renumbered § 5105, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(9), Aug. 6, 1991, 105 Stat. 405; Pub. L. 103–296, title I, § 108(k), Aug. 15, 1994, 108 Stat. 1488.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior section 5105 was renumbered section 8305 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–296, § 108(k)(1), substituted "Commissioner of Social Security" for "Secretary of Health and Human Services".

Subsec. (b). Pub. L. 103–296, § 108(k), substituted "Commissioner of Social Security" for "Secretary of Health and Human Services" in two places and amended second sentence generally. Prior to amendment, second sentence read as follows: "A copy of each such application filed with either Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by that Secretary with such application, and which may be needed by the other Secretary in connection therewith, shall be transmitted by the Secretary receiving the application to the other Secretary."

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3005 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(9)(A)–(C), substituted "(a) The Secretary" for "The Administrator" at the beginning of text and substituted "401 et seq.)." for "401 et seq.); and" in second sentence.

Subsec. (b). Pub. L. 102–83, § 4(b)(9)(D)–(J), substituted "(b) When an application on such a form is filed with either the Secretary" for "when an application on such form has been filed with either the Administrator", "filed with either Secretary" for "filed with the Administrator", "received by that Secretary" for "received by the Administrator", "needed by the other Secretary" for "needed by the Secretary", and "by the Secretary receiving the application to the other Secretary." for "by the Administrator to the Secretary;", struck out "and a copy of each such application filed with the Secretary, together with any additional information and supporting documents (or certifications thereof) which may have been received by the Secretary with such form, and which may be needed by the Administrator in connection therewith, shall be transmitted by the Secretary to the Administrator." before "The preceding sentence", and substituted "the Secretary and the Secretary of Health and Human Services" for "the Secretary and the Administrator".

1983—Pub. L. 98–160 substituted "title II of the Social Security Act (42 U.S.C. 401 et seq.)" for "subchapter II of chapter 7 of title 42" wherever appearing.

1982—Pub. L. 97–295 substituted "Health and Human Services" for "Health, Education, and Welfare" wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

§ 5106. Furnishing of information by other agencies

The head of any Federal department or agency shall provide such information to the Secretary as the Secretary may request for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto. The cost of providing information to the Secretary under this section shall be borne by the department or agency providing the information.

(Added Pub. L. 94–432, title IV, § 403(2), Sept. 30, 1976, 90 Stat. 1372, § 3006; amended Pub. L. 99–576, title VII, § 701(62), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5106, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 106–475, § 5, Nov. 9, 2000, 114 Stat. 2099.)

AMENDMENTS

2000—Pub. L. 106–475 inserted at end "The cost of providing information to the Secretary under this section shall be borne by the department or agency providing the information."

1991—Pub. L. 102–40 renumbered section 3006 of this title as this section.

Pub. L. 102–83 substituted "Secretary" for "Administrator" in two places.

1986—Pub. L. 99–576 substituted "the Administrator" for "he" before "may request".

EFFECTIVE DATE

Section effective Sept. 30, 1976, see section 405(a) of Pub. L. 94–432, set out as an Effective Date of 1976 Amendment note under section 1521 of this title.

§ 5107. Claimant responsibility; benefit of the doubt

(a) CLAIMANT RESPONSIBILITY.—Except as otherwise provided by law, a claimant has the responsibility to present and support a claim for benefits under laws administered by the Secretary.

(b) BENEFIT OF THE DOUBT.—The Secretary shall consider all information and lay and medical evidence of record in a case before the Secretary with respect to benefits under laws administered by the Secretary. When there is an approximate balance of positive and negative evidence regarding any issue material to the determination of a matter, the Secretary shall give the benefit of the doubt to the claimant.

(Added Pub. L. 100–687, div. A, title I, § 103(a)(1), Nov. 18, 1988, 102 Stat. 4106, § 3007; renumbered § 5107 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(a)], Oct. 30, 2000, 114 Stat. 1654, 1654A–359; Pub. L. 106–419, title I, § 104(c)(2), Nov. 1, 2000, 114 Stat. 1828; Pub. L. 106–475, § 4, Nov. 9, 2000, 114 Stat. 2098.)

AMENDMENTS

2000—Pub. L. 106–475 substituted "Claimant responsibility; benefit of the doubt" for "Burden of proof; ben-

efit of the doubt'' in section catchline and amended text generally. Prior to amendment, text read as follows:

''(a) Except when otherwise provided by the Secretary in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Secretary shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Secretary shall assist such a claimant in developing the facts pertinent to the claim. Such assistance shall include requesting information as described in section 5106 of this title.

''(b) When, after consideration of all evidence and material of record in a case before the Department with respect to benefits under laws administered by the Secretary, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Secretary the burden specified in subsection (a) of this section.''

Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(a)], directed the general amendment of the section catchline and text. Pub. L. 106–419, § 104(c)(2), provided that, as of the enactment of Pub. L. 106–419, the amendment made by Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(a)], was deemed for all purposes not to have taken effect and that Pub. L. 106–398, § 1 [[div. A], title XVI, § 1611(a)], ceased to be in effect.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3007 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''5106'' for ''3006''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''the burden''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–475, § 7, Nov. 9, 2000, 114 Stat. 2099, provided that:

''(a) IN GENERAL.—Except as specifically provided otherwise, the provisions of section 5107 of title 38, United States Code, as amended by section 4 of this Act, apply to any claim—

''(1) filed on or after the date of the enactment of this Act [Nov. 9, 2000]; or

''(2) filed before the date of the enactment of this Act and not final as of that date.

''(b) RULE FOR CLAIMS THE DENIAL OF WHICH BECAME FINAL AFTER THE COURT OF APPEALS FOR VETERANS CLAIMS DECISION IN THE MORTON CASE.—(1) In the case of a claim for benefits denied or dismissed as described in paragraph (2), the Secretary of Veterans Affairs shall, upon the request of the claimant or on the Secretary's own motion, order the claim readjudicated under chapter 51 of such title, as amended by this Act, as if the denial or dismissal had not been made.

''(2) A denial or dismissal described in this paragraph is a denial or dismissal of a claim for a benefit under the laws administered by the Secretary of Veterans Affairs that—

''(A) became final during the period beginning on July 14, 1999, and ending on the date of the enactment of this Act; and

''(B) was issued by the Secretary of Veterans Affairs or a court because the claim was not well grounded (as that term was used in section 5107(a) of title 38, United States Code, as in effect during that period).

''(3) A claim may not be readjudicated under this subsection unless a request for readjudication is filed by the claimant, or a motion is made by the Secretary, not later than 2 years after the date of the enactment of this Act.

''(4) In the absence of a timely request of a claimant under paragraph (3), nothing in this Act [see Short Title of 2000 Amendments note set out under section 101 of this title] shall be construed as establishing a duty on the part of the Secretary of Veterans Affairs to locate and readjudicate a claim described in this subsection.''

EFFECTIVE DATE

Section effective Sept. 1, 1989, see section 401(a) of Pub. L. 100–687, set out as a note under section 7251 of this title.

§ 5108. Reopening disallowed claims

If new and material evidence is presented or secured with respect to a claim which has been disallowed, the Secretary shall reopen the claim and review the former disposition of the claim.

(Added Pub. L. 100–687, div. A, title I, § 103(a)(1), Nov. 18, 1988, 102 Stat. 4107, § 3008; renumbered § 5108, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3008 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section effective Sept. 1, 1989, see section 401(a) of Pub. L. 100–687, set out as a note under section 7251 of this title.

§ 5109. Independent medical opinions

(a) When, in the judgment of the Secretary, expert medical opinion, in addition to that available within the Department, is warranted by the medical complexity or controversy involved in a case being considered by the Department, the Secretary may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Department.

(b) The Secretary shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

(c) The Secretary shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Secretary.

(Added Pub. L. 100–687, div. A, title I, § 103(a)(1), Nov. 18, 1988, 102 Stat. 4107, § 3009; renumbered § 5109, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3009 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsecs. (b), (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Sept. 1, 1989, see section 401(a) of Pub. L. 100–687, set out as a note under section 7251 of this title.

§ 5109A. Revision of decisions on grounds of clear and unmistakable error

(a) A decision by the Secretary under this chapter is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

(b) For the purposes of authorizing benefits, a rating or other adjudicative decision that constitutes a reversal or revision of a prior decision on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Secretary on the Secretary's own motion or upon request of the claimant.

(d) A request for revision of a decision of the Secretary based on clear and unmistakable error may be made at any time after that decision is made.

(e) Such a request shall be submitted to the Secretary and shall be decided in the same manner as any other claim.

(Added Pub. L. 105–111, § 1(a)(1), Nov. 21, 1997, 111 Stat. 2271.)

EFFECTIVE DATE

Section 1(c)(1) of Pub. L. 105–111 provided that: ''Sections 5109A and 7111 of title 38, United States Code, as added by this section, apply to any determination made before, on, or after the date of the enactment of this Act [Nov. 21, 1997].''

§ 5109B. Expedited treatment of remanded claims

The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the appropriate regional office of the Veterans Benefits Administration of any claim that is remanded to a regional office of the Veterans Benefits Administration by the Board of Veterans' Appeals.

(Added Pub. L. 108–183, title VII, § 707(a)(1), Dec. 16, 2003, 117 Stat. 2672.)

SUBCHAPTER II—EFFECTIVE DATES

§ 5110. Effective dates of awards

(a) Unless specifically provided otherwise in this chapter, the effective date of an award based on an original claim, a claim reopened after final adjudication, or a claim for increase, of compensation, dependency and indemnity compensation, or pension, shall be fixed in accordance with the facts found, but shall not be earlier than the date of receipt of application therefor.

(b)(1) The effective date of an award of disability compensation to a veteran shall be the day following the date of the veteran's discharge or release if application therefor is received within one year from such date of discharge or release.

(2) The effective date of an award of increased compensation shall be the earliest date as of which it is ascertainable that an increase in disability had occurred, if application is received within one year from such date.

(3)(A) The effective date of an award of disability pension to a veteran described in subparagraph (B) of this paragraph shall be the date of application or the date on which the veteran became permanently and totally disabled, if the veteran applies for a retroactive award within one year from such date, whichever is to the advantage of the veteran.

(B) A veteran referred to in subparagraph (A) of this paragraph is a veteran who is permanently and totally disabled and who is prevented by a disability from applying for disability pension for a period of at least 30 days beginning on the date on which the veteran became permanently and totally disabled.

(c) The effective date of an award of disability compensation by reason of section 1151 of this title shall be the date such injury or aggravation was suffered if an application therefor is received within one year from such date.

(d) The effective date of an award of death compensation, dependency and indemnity compensation, or death pension for which application is received within one year from the date of death shall be the first day of the month in which the death occurred.

(e)(1) Except as provided in paragraph (2) of this subsection, the effective date of an award of dependency and indemnity compensation to a child shall be the first day of the month in which the child's entitlement arose if application therefor is received within one year from such date.

(2) In the case of a child who is eighteen years of age or over and who immediately before becoming eighteen years of age was counted under section 1311(b) of this title in determining the amount of the dependency and indemnity compensation of a surviving spouse, the effective date of an award of dependency and indemnity compensation to such child shall be the date the child attains the age of eighteen years if application therefor is received within one year from such date.

(f) An award of additional compensation on account of dependents based on the establishment of a disability rating in the percentage evaluation specified by law for the purpose shall be payable from the effective date of such rating; but only if proof of dependents is received within one year from the date of notification of such rating action.

(g) Subject to the provisions of section 5101 of this title, where compensation, dependency and indemnity compensation, or pension is awarded or increased pursuant to any Act or administrative issue, the effective date of such award or increase shall be fixed in accordance with the facts found but shall not be earlier than the effective date of the Act or administrative issue. In no event shall such award or increase be retroactive for more than one year from the date of application therefor or the date of administra-

tive determination of entitlement, whichever is earlier.

(h) Where an award of pension has been deferred or pension has been awarded at a rate based on anticipated income for a year and the claimant later establishes that income for that year was at a rate warranting entitlement or increased entitlement, the effective date of such entitlement or increase shall be fixed in accordance with the facts found if satisfactory evidence is received before the expiration of the next calendar year.

(i) Whenever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which an application was filed for correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, or the date such disallowed claim was filed, whichever date is the later, but in no event shall such award of benefits be retroactive for more than one year from the date of reopening of such disallowed claim. This subsection shall not apply to any application or claim for Government life insurance benefits.

(j) Where a report or a finding of death of any person in the active military, naval, or air service has been made by the Secretary concerned, the effective date of an award of death compensation, dependency and indemnity compensation, or death pension, as applicable, shall be the first day of the month fixed by that Secretary as the month of death in such report or finding, if application therefor is received within one year from the date such report or finding has been made; however, such benefits shall not be payable to any person for any period for which such person has received, or was entitled to receive, an allowance, allotment, or service pay of the deceased.

(k) The effective date of the award of benefits to a surviving spouse or of an award or increase of benefits based on recognition of a child, upon annulment of a marriage shall be the date the judicial decree of annulment becomes final if a claim therefor is filed within one year from the date the judicial decree of annulment becomes final; in all other cases the effective date shall be the date the claim is filed.

(*l*) The effective date of an award of benefits to a surviving spouse based upon a termination of a remarriage by death or divorce, or of an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce, shall be the date of death or the date the judicial decree or divorce becomes final, if an application therefor is received within one year from such termination.

[(m) Repealed. Pub. L. 103–446, title XII, § 1201(i)(8), Nov. 2, 1994, 108 Stat. 4688.]

(n) The effective date of the award of any benefit or any increase therein by reason of marriage or the birth or adoption of a child shall be the date of such event if proof of such event is received by the Secretary within one year from the date of the marriage, birth, or adoption.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1226, § 3010; Pub. L. 87–674, § 3, Sept. 19, 1962, 76 Stat. 558; Pub. L. 87–825, § 1, Oct. 15, 1962, 76 Stat. 948; Pub. L. 91–376, § 7, Aug. 12, 1970, 84 Stat. 790; Pub. L. 91–584, § 13, Dec. 24, 1970, 84 Stat. 1578; Pub. L. 93–177, § 6(a), Dec. 6, 1973, 87 Stat. 696; Pub. L. 93–527, § 9(b), Dec. 21, 1974, 88 Stat. 1705; Pub. L. 94–71, title I, § 104, Aug. 5, 1975, 89 Stat. 396; Pub. L. 97–66, title II, § 204(b), Oct. 17, 1981, 95 Stat. 1029; Pub. L. 98–160, title VII, § 703(1), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 98–223, title II, § 213(3), Mar. 2, 1984, 98 Stat. 46; Pub. L. 98–369, div. B, title V, § 2501(a), July 18, 1984, 98 Stat. 1116; Pub. L. 99–576, title VII, § 701(63), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5110 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(2)(A)(vi), (b)(4)(B), 5(c)(1), Aug. 6, 1991, 105 Stat. 403, 405, 406; Pub. L. 103–446, title XII, § 1201(i)(8), Nov. 2, 1994, 108 Stat. 4688; Pub. L. 108–454, title III, § 305, Dec. 10, 2004, 118 Stat. 3611.)

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–454 struck out par. (1) designation after subsec. (d) designation, substituted ''death compensation, dependency and indemnity compensation, or death pension'' for ''death compensation or dependency and indemnity compensation'', and struck out par.(2) which read as follows: ''The effective date of an award of death pension for which application is received within 45 days from the date of death shall be the first day of the month in which the death occurred.''

1994—Subsec. (m). Pub. L. 103–446 struck out subsec. (m) which read as follows: ''The effective date of an award of benefits to a surviving spouse based upon termination of actions described in section 103(d)(3) of this title shall not be earlier than the date of receipt of application therefor filed after termination of such actions and after December 31, 1970.''

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3010 of this title as this section.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1151'' for ''351''.

Subsec. (e)(2). Pub. L. 102–83, § 5(c)(1), substituted ''1311(b)'' for ''411(b)''.

Subsec. (g). Pub. L. 102–40, § 402(d)(1), substituted ''5101'' for ''3001''.

Subsec. (j). Pub. L. 102–83, § 4(b)(4)(B), substituted ''that Secretary'' for ''the Secretary'' after ''month fixed by''.

Subsec. (n). Pub. L. 102–83, § 4(a)(2)(A)(vi), substituted ''Secretary'' for ''Veterans' Administration''.

1986—Subsec. (b)(1). Pub. L. 99–576 substituted ''the veteran's'' for ''his''.

1984—Subsec. (b)(3)(A). Pub. L. 98–369, § 2501(a)(1), designated existing provisions as subpar. (A), inserted ''described in subparagraph (B) of this paragraph'' after ''to a veteran'', substituted ''the veteran applies for a retroactive award'' for ''an application therefor is received'', and added subpar. (B).

Subsec. (d). Pub. L. 98–369, § 2501(a)(2), designated existing provisions as par. (1), substituted ''dependency and indemnity compensation for which application is received'' for '', dependency and indemnity compensation, or death pension, where application is received'', and added par. (2).

Subsec. (m). Pub. L. 98–223 substituted ''section'' for ''subsection''.

1983—Subsecs. (k) to (m). Pub. L. 98–160 substituted ''surviving spouse'' for ''widow'' wherever appearing.

1981—Subsec. (e). Pub. L. 97–66 designated existing provisions as par. (1), substituted ''Except as provided in paragraph (2) of this subsection, the'' for ''The'', and added par. (2).

1975—Subsec. (b)(2), (3). Pub. L. 94–71 added par. (2) and redesignated former par. (2) as (3).

1974—Subsec. (*l*). Pub. L. 93–527 inserted provisions relating to an award or increase of benefits based on recognition of a child upon termination of the child's marriage by death or divorce.

1973—Subsec. (b). Pub. L. 93–177 designated existing provisions as par. (1) and added par. (2).

1970—Subsecs. (*l*), (m). Pub. L. 91–376 added subsecs. (*l*) and (m).

Subsec. (n). Pub. L. 91–584 added subsec. (n).

1962—Subsec. (a). Pub. L. 87–825 inserted ''based on an original claim, a claim reopened after final adjudication, or a claim for increase''.

Subsec. (c). Pub. L. 87–825 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 87–825 redesignated former subsec. (c) as (d) and substituted first day of month in which the death occurred, for the day after the day of death, as the effective date. Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 87–825 redesignated former subsec. (d) as (e), substituted ''first day of the month'' for ''date'', and struck out ''the entitlement arose'' after ''from such date.'' Former subsec. (e) redesignated (j).

Subsec. (f). Pub. L. 87–825 added subsec. (f). A prior subsec. (f) added by Pub. L. 87–674 was redesignated (k) by Pub. L. 87–825.

Subsecs. (g) to (i). Pub. L. 87–825 added subsecs. (g) to (i).

Subsec. (j). Pub. L. 87–825 redesignated former subsec. (e) as (j), and substituted ''first day of the month'' for ''day after the date'', and ''month of death'' for ''date of death''.

Subsec. (k). Pub. L. 87–825 redesignated former subsec. (f), added by Pub. L. 87–674, as (k).

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2501(b) of Pub. L. 98–369 provided that: ''The amendments made by subsection (a)(1) [amending this section] and the provisions of paragraph (2) of section 3010(d) [now 5110(d)] of title 38, United States Code, as added by subsection (a)(2), shall take effect with respect to applications that are first received after September 30, 1984, for benefits under chapter 15 of title 38, United States Code.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–527 effective Jan. 1, 1975, see section 10 of Pub. L. 93–527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Section 6(b) of Pub. L. 93–177 provided that: ''Subsection (a) of this section [amending this section] shall apply to applications filed after its effective date [Jan. 1, 1974], but in no event shall an award made thereunder be effective prior to such effective date.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–376 effective Jan. 1, 1971, see section 9 of Pub. L. 91–376, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87–825, set out as a note under section 110 of this title.

§ 5111. Commencement of period of payment

(a) Notwithstanding section 5110 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 5110 of this title or such other provision of law.

(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 5110 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Secretary.

(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 5305 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

(c)(1) This section shall apply to payments made pursuant to section 5310 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

(2) In the case of a temporary increase in compensation for hospitalization or treatment where such hospitalization or treatment commences and terminates within the same calendar month, the period of payment shall commence on the first day of such month.

(d) For the purposes of this section, the term ''award or increased award'' means—

(1) an original or reopened award; or

(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.

(Added Pub. L. 97–253, title IV, § 401(a)(1), Sept. 8, 1982, 96 Stat. 801, § 3011; amended Pub. L. 98–223, title I, § 113, Mar. 2, 1984, 98 Stat. 40; renumbered § 5111 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3011 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 402(d)(1), substituted ''5110'' for ''3010'' in two places.

Subsec. (b)(1). Pub. L. 102–83 substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''5110'' for ''3010''.

Subsec. (b)(2). Pub. L. 102–40, § 402(d)(1), substituted ''5305'' for ''3105''.

Subsec. (c)(1). Pub. L. 102–40, § 402(d)(1), substituted ''5310'' for ''3110''.

1984—Subsec. (c). Pub. L. 98–223 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–223 effective Oct. 1, 1983, see section 114 of Pub. L. 98–223, set out as a note under section 1112 of this title.

EFFECTIVE DATE

Section 401(b) of Pub. L. 97–253 provided that: ''Section 3011 [now 5111] of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982.''

§ 5112. Effective dates of reductions and discontinuances

(a) Except as otherwise specified in this section, the effective date of reduction or discontinuance of compensation, dependency and indemnity compensation, or pension shall be fixed in accordance with the facts found.

(b) The effective date of a reduction or discontinuance of compensation, dependency and indemnity compensation, or pension—

(1) by reason of marriage or remarriage, or death of a payee shall be the last day of the month before such marriage, remarriage, or death occurs;

(2) by reason of marriage, annulment, divorce, or death of a dependent of a payee shall be the last day of the month in which such marriage, annulment, divorce, or death occurs;

(3) by reason of receipt of active service pay or retirement pay shall be the day before the date such pay began;

(4) by reason of—

(A) change in income shall (except as provided in section 5312 of this title) be the last day of the month in which the change occurred; and

(B) change in corpus of estate shall be the last day of the calendar year in which the change occurred;

(5) by reason of a change in disability or employability of a veteran in receipt of pension shall be the last day of the month in which discontinuance of the award is approved;

(6) by reason of change in law or administrative issue, change in interpretation of a law or administrative issue, or, for compensation purposes, a change in service-connected or employability status or change in physical condition shall be the last day of the month following sixty days from the date of notice to the payee (at the payee's last address of record) of the reduction or discontinuance;

(7) by reason of the discontinuance of school attendance of a payee or a dependent of a payee shall be the last day of the month in which such discontinuance occurred;

(8) by reason of termination of a temporary increase in compensation for hospitalization or treatment shall be the last day of the month in which the hospital discharge or termination of treatment occurred, whichever is earlier;

(9) by reason of an erroneous award based on an act of commission or omission by the beneficiary, or with the beneficiary's knowledge, shall be the effective date of the award; and

(10) by reason of an erroneous award based solely on administrative error or error in judgment shall be the date of last payment.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1227, § 3012; Pub. L. 87–825, § 2, Oct. 15, 1962, 76 Stat. 949; Pub. L. 89–730, § 3, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 90–275, § 5, Mar. 28, 1968, 82 Stat. 68; Pub. L. 92–198, § 3, Dec. 15, 1971, 85 Stat. 664; Pub. L. 94–433, title IV, § 402, Sept. 30, 1976, 90 Stat. 1378; Pub. L. 95–588, title III, § 303, Nov. 4, 1978, 92 Stat. 2506; Pub. L. 97–253, title IV, § 402(a), Sept. 8, 1982, 96 Stat. 802; Pub. L. 99–576, title V, § 503, title VII, § 701(64), Oct. 28, 1986, 100 Stat. 3286, 3296; renumbered § 5112 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 107–103, title II, § 204(b)(2), Dec. 27, 2001, 115 Stat. 990.)

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–103 struck out subsec. (c) which read as follows: ''The effective date of a discontinuance under section 5503(b)(1)(A) of this title of pension, compensation, or emergency officers' retirement pay by reason of hospital treatment or institutional or domiciliary care shall be the last day of the first month of such treatment or care during which the value of the veteran's estate, as determined under such section, equals or exceeds $1,500.''

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3012 of this title as this section.

Subsec. (b)(4)(A). Pub. L. 102–40, § 402(d)(1), substituted ''5312'' for ''3112''.

Subsec. (c). Pub. L. 102–40, § 402(d)(1), substituted ''5503(b)(1)(A)'' for ''3203(b)(1)(A)''.

1986—Subsec. (b)(6). Pub. L. 99–576, § 701(64), substituted ''the payee's'' for ''his''.

Subsec. (c). Pub. L. 99–576, § 503, added subsec. (c).

1982—Subsec. (b)(2). Pub. L. 97–253 substituted ''month'' for ''calendar year''.

1978—Subsec. (b)(4). Pub. L. 95–588 restructured subsection and, as so restructured, provided that the effective date of a change in compensation by reason of a change in income would be the last day of the month in which the change occurred rather than the last day in the calendar year in which such change in income occurred.

1976—Subsec. (b)(2). Pub. L. 94–433, § 402(1), inserted ''annulment,'' before ''divorce'' in two places.

Subsec. (b)(9). Pub. L. 94–433, § 402(2), substituted ''the beneficiary's'' for ''his'' before ''knowledge''.

1971—Subsec. (b)(2). Pub. L. 92–198 substituted ''last day of the calendar year'' for ''last day of the month''.

1968—Subsec. (b)(4). Pub. L. 90–275 struck out exception which provided that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1966—Subsec. (b)(4). Pub. L. 89–730 provided for exception that where change in income is due to an increase in payments under a public or private retirement plan the effective date of the resulting reduction or discontinuance shall be the last day of the calendar year in which the change occurred.

1962—Subsecs. (b), (c). Pub. L. 87–825 redesignated subsec. (c) as (b), amended such subsec. generally, and among other changes, inserted provisions relating to the marriage, divorce, or death of a dependent of a payee, the change in income or corpus of an estate, the change in disability or employability of a veteran, the change in law or administrative issue of service-connected or employability status or physical condition,

the discontinuance of school attendance, the termination of a temporary increase in compensation for hospitalization or treatment, an erroneous award based on an act or omission of the beneficiary or with his knowledge, and an erroneous award based solely on administrative error or error in judgment, changed the effective date by reason of death, or by reason of marriage or remarriage, from the date of death, or the day before the date of marriage or remarriage, respectively, to the last day of the month before such death, marriage or remarriage occurs, and eliminated provisions relating to attaining age 18 or 21, as applicable, and to fraud on the part of the beneficiary or with his knowledge. Former subsec. (b), which related to the effective date of a reduction or discontinuance in rates, of a compensation, dependency and indemnity compensation, or a pension award, was struck out.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 402(b) of Pub. L. 97–253 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–198 effective Jan. 1, 1972, see section 6 of Pub. L. 92–198, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–275 effective first day of first calendar month following month of initial payment of increases in monthly insurance benefits provided by Social Security Amendments of 1967, see section 6(b) of Pub. L. 90–275, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89–730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–825 effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87–825, set out as a note under section 110 of this title.

§ 5113. Effective dates of educational benefits

(a) Except as provided in subsections (b) and (c), effective dates relating to awards under chapters 30, 31, 32, 34, and 35 of this title or chapter 106 of title 10 shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

(b)(1) When determining the effective date of an award under chapter 35 of this title for an individual described in paragraph (2) based on an original claim, the Secretary may consider the individual's application as having been filed on the eligibility date of the individual if that eligibility date is more than one year before the date of the initial rating decision.

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

(A) submits to the Secretary an original application for educational assistance under chapter 35 of this title within one year of the date that the Secretary makes the rating decision;

(B) claims such educational assistance for pursuit of an approved program of education during a period preceding the one-year period ending on the date on which the application was received by the Secretary; and

(C) would have been entitled to such educational assistance for such course pursuit if the individual had submitted such an application on the individual's eligibility date.

(3) In this subsection:

(A) The term ''eligibility date'' means the date on which an individual becomes an eligible person.

(B) The term ''eligible person'' has the meaning given that term under section 3501(a)(1) of this title under subparagraph (A)(i), (A)(ii), (B), or (D) of such section by reason of either (i) the service-connected death or (ii) service-connected total disability permanent in nature of the veteran from whom such eligibility is derived.

(C) The term ''initial rating decision'' means with respect to an eligible person a decision made by the Secretary that establishes (i) service connection for such veteran's death or (ii) the existence of such veteran's service-connected total disability permanent in nature, as the case may be.

(c) The effective date of an adjustment of benefits under any chapter referred to in subsection (a) of this section, if made on the basis of a certification made by the veteran or person and accepted by the Secretary under section 3680(g) of this title, shall be the date of the change.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1227, § 3013; Pub. L. 89–358, § 4(p), Mar. 3, 1966, 80 Stat. 25; Pub. L. 99–576, title III, § 321(10), Oct. 28, 1986, 100 Stat. 3278; Pub. L. 100–322, title III, § 323, May 20, 1988, 102 Stat. 536; Pub. L. 101–237, title IV, § 419, Dec. 18, 1989, 103 Stat. 2087; Pub. L. 102–16, § 10(a)(9), Mar. 22, 1991, 105 Stat. 56; renumbered § 5113, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 106–419, title I, § 113(a), Nov. 1, 2000, 114 Stat. 1832.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–419, § 113(a)(2), substituted ''subsections (b) and (c)'' for ''subsection (b) of this section''.

Subsecs. (b), (c). Pub. L. 106–419, § 113(a)(1), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

1991—Pub. L. 102–40 renumbered section 3013 of this title as this section.

Subsec. (a). Pub. L. 102–16 inserted ''or chapter 106 of title 10'' after ''of this title''.

Subsec. (b). Pub. L. 102–83 substituted ''3680(g)'' for ''1780(g)''.

1989—Pub. L. 101–237 designated existing provisions as subsec. (a), substituted ''Except as provided in subsection (b) of this section, effective'' for ''Effective'', and added subsec. (b).

1988—Pub. L. 100–322 inserted reference to chapter 32.

1986—Pub. L. 99–576 inserted reference to chapter 30.

1966—Pub. L. 89–358 substituted ''34'' for ''33''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title I, § 113(b), Nov. 1, 2000, 114 Stat. 1832, provided that: ''The amendments made by sub-

section (a) [amending this section] shall apply to applications first made under section 3513 of title 38, United States Code, that—

''(1) are received on or after the date of the enactment of this Act [Nov. 1, 2000]; or

''(2) on the date of the enactment of this Act, are pending (A) with the Secretary of Veterans Affairs, or (B) exhaustion of available administrative and judicial remedies.''

SUBCHAPTER III—PAYMENT OF BENEFITS

§ 5120. Payment of benefits; delivery

(a) Monetary benefits under laws administered by the Secretary shall be paid by checks drawn, pursuant to certification by the Secretary, in such form as to protect the United States against loss, and payable by the Treasurer of the United States. Such checks shall be payable without separate vouchers or receipts except in any case in which the Secretary may consider a voucher necessary for the protection of the Government. Such checks shall be transmitted by mail to the payee thereof at the payee's last known address and, if the payee has moved and filed a regular change of address notice with the United States Postal Service, shall be forwarded to the payee. The envelope or cover of each such checks shall bear on the face thereof the following notice: ''POSTMASTER: PLEASE FORWARD if addressee has moved and filed a regular change-of-address notice. If addressee is deceased, return the letter with date of death, if known.''

(b) Postmasters, delivery clerks, letter carriers, and all other postal employees are prohibited from delivering any mail addressed by the United States and containing any such check to any person whomsoever if such person has died or in the case of a surviving spouse, if the postal employee believes that the surviving spouse has remarried (unless the mail is addressed to the surviving spouse in the name the surviving spouse has acquired by the remarriage). The preceding sentence shall apply in the case of checks in payment of benefits other than pension, compensation, dependency and indemnity compensation, and insurance, only insofar as the Secretary deems it necessary to protect the United States against loss.

(c) Whenever mail is not delivered because of the prohibition of subsection (b), such mail shall be returned forthwith by the postmaster with a statement of the reason for so doing, and if because of death or remarriage, the date thereof, if known. Checks returned under this subsection because of death or remarriage shall be canceled.

(d) Notwithstanding subsection (a) of this section, pursuant to an agreement with the Department of the Treasury under which the Secretary certifies such benefits for payment, monetary benefits under laws administered by the Secretary may be paid other than by check upon the written request of the person to whom such benefits are to be paid, if such noncheck payment is determined by the Secretary to be in the best interest of such payees and the management of monetary benefits programs by the Department.

(e) Whenever the first day of any calendar month falls on a Saturday, Sunday, or legal public holiday (as defined in section 6103 of title 5), the Secretary shall, to the maximum extent practicable, certify benefit payments for such month in such a way that such payments will be delivered by mail, or transmitted for credit to the payee's account pursuant to subsection (d) of this section, on the Friday immediately preceding such Saturday or Sunday, or in the case of a legal holiday, the weekday (other than Saturday) immediately preceding such legal public holiday, notwithstanding that such delivery or transmission of such payments is made in the same calendar month for which such payments are issued.

(f)(1) In the case of a payee who does not have a mailing address, payments of monetary benefits under laws administered by the Secretary shall be delivered under an appropriate method prescribed pursuant to paragraph (2) of this subsection.

(2) The Secretary shall prescribe an appropriate method or methods for the delivery of payments of monetary benefits under laws administered by the Secretary in cases described in paragraph (1) of this subsection. To the maximum extent practicable, such method or methods shall be designed to ensure the delivery of payments in such cases.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1227, § 3020; Pub. L. 95–117, title IV, § 402(a), (b)(1), Oct. 3, 1977, 91 Stat. 1065, 1066; Pub. L. 97–295, § 4(73), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 99–570, title XI, § 11007(a)(2), Oct. 27, 1986, 100 Stat. 3207–170; Pub. L. 99–576, title VII, § 701(65), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5120, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3020 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' before period at end.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (f)(1). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (f)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Subsec. (a). Pub. L. 99–576, § 701(65)(A), substituted ''the payee's'' for ''his'', and ''the payee'' for ''he'' and ''him'' in third sentence.

Subsec. (b). Pub. L. 99–576, § 701(65)(B), substituted ''such person'' for ''he'', ''surviving spouse'' for ''widow'', ''the surviving spouse'' for ''she'' in two places, ''to the surviving spouse'' for ''to her'', and ''by the'' for ''by her'' in first sentence.

Subsec. (f). Pub. L. 99–570 added subsec. (f).

1982—Subsec. (a). Pub. L. 97–295 substituted ''United States Postal Service'' for ''Post Office Department''.

1977—Pub. L. 95–117, § 402(b)(1), struck out ''by check'' after ''benefits'' in section catchline.

Subsecs. (d), (e). Pub. L. 95–117, § 402(a), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1986 AMENDMENT

Section 11007(b)(2) of Pub. L. 99–570 provided that: ''The amendment made by subsection (a)(2) [amending this section] shall take effect with respect to payments made on or after October 1, 1986.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 402(c) of Pub. L. 95–117 provided that: ''The amendments made by this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977].''

§ 5121. Payment of certain accrued benefits upon death of a beneficiary

(a) Except as provided in sections 3329 and 3330 of title 31, periodic monetary benefits (other than insurance and servicemen's indemnity) under laws administered by the Secretary to which an individual was entitled at death under existing ratings or decisions or those based on evidence in the file at date of death (hereinafter in this section and section 5122 of this title referred to as ''accrued benefits'') and due and unpaid, shall, upon the death of such individual be paid as follows:

(1) Upon the death of a person receiving an apportioned share of benefits payable to a veteran, all or any part of such benefits to the veteran or to any other dependent or dependents of the veteran, as may be determined by the Secretary.

(2) Upon the death of a veteran, to the living person first listed below:

(A) The veteran's spouse.

(B) The veteran's children (in equal shares).

(C) The veteran's dependent parents (in equal shares).

(3) Upon the death of a surviving spouse or remarried surviving spouse, to the children of the deceased veteran.

(4) Upon the death of a child, to the surviving children of the veteran who are entitled to death compensation, dependency and indemnity compensation, or death pension.

(5) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents.

(6) In all other cases, only so much of the accrued benefits may be paid as may be necessary to reimburse the person who bore the expense of last sickness and burial.

(b) No part of any accrued benefits shall be used to reimburse any political subdivision of the United States for expenses incurred in the last sickness or burial of any beneficiary.

(c) Applications for accrued benefits must be filed within one year after the date of death. If a claimant's application is incomplete at the time it is originally submitted, the Secretary shall notify the claimant of the evidence necessary to complete the application. If such evidence is not received within one year from the date of such notification, no accrued benefits may be paid.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1228, § 3021; Pub. L. 92–328, title I, § 105(b), June 30, 1972, 86 Stat. 395; Pub. L. 97–258, § 3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 98–160, title VII, § 703(1), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99–576, title VII, § 701(66), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5121 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 104–275, title V, § 507, Oct. 9, 1996, 110 Stat. 3343; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35; Pub. L. 108–183, title I, § 104(a)–(c), Dec. 16, 2003, 117 Stat. 2656.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, § 104(c)(1), struck out comma after ''or decisions'' in introductory provisions.

Pub. L. 108–183, § 104(a), struck out ''for a period not to exceed two years'' after ''unpaid'' in introductory provisions.

Subsec. (a)(1) to (4). Pub. L. 108–183, § 104(c)(2), substituted period for semicolon at end of pars. (1) to (4) and subpars. (A) and (B) of par. (2).

Subsec. (a)(5), (6). Pub. L. 108–183, § 104(b), added par. (5) and redesignated former par. (5) as (6).

2001—Subsec. (a). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter'' in introductory provisions.

1996—Subsec. (a). Pub. L. 104–275 substituted ''two years'' for ''one year'' in introductory provisions.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3021 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (1).

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in introductory provisions.

Pub. L. 102–40, § 402(d)(1), substituted ''5122'' for ''3022'' in introductory provisions.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (a). Pub. L. 99–576, § 701(66)(A), struck out ''his'' after ''entitled at''.

Subsec. (a)(2)(A) to (C). Pub. L. 99–576, § 701(66)(B), substituted ''The veteran's'' for ''His''.

1983—Subsec. (a)(3). Pub. L. 98–160 substituted ''surviving spouse'' for ''widow'' in two places.

1982—Subsec. (a). Pub. L. 97–258 substituted ''sections 3329 and 3330 of title 31'' for ''sections 123–128 of title 31''.

1972—Subsec. (a). Pub. L. 92–328 struck out reference to section 3203(a)(2)(A) of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title I, § 104(d), Dec. 16, 2003, 117 Stat. 2656, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to deaths occurring on or after the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92–328, set out as a note under section 1114 of this title.

§ 5122. Cancellation of checks mailed to deceased payees

A check received by a payee in payment of accrued benefits shall, if the payee died on or after the last day of the period covered by the check, be returned to the issuing office and canceled,

unless negotiated by the payee or the duly appointed representative of the payee's estate. The amount represented by such check, or any amount recovered by reason of improper negotiation of any such check, shall be payable in the manner provided in section 5121 of this title, without regard to section 5121(c) of this title. Any amount not paid in the manner provided in section 5121 of this title shall be paid to the estate of the deceased payee unless the estate will escheat.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1229, § 3022; Pub. L. 99–576, title VII, § 701(67), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5122 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 104–316, title II, § 202(t), Oct. 19, 1996, 110 Stat. 3845.)

AMENDMENTS

1996—Pub. L. 104–316 in last sentence struck out ''upon settlement by the General Accounting Office'' after ''shall be paid''.

1991—Pub. L. 102–40 renumbered section 3022 of this title as this section and substituted ''5121'' for ''3021'' in two places and ''5121(c)'' for ''3021(c)''.

1986—Pub. L. 99–576 substituted ''the payee's'' for ''his'' in first sentence.

§ 5123. Rounding down of pension rates

The monthly or other periodic rate of pension payable to an individual under section 1521, 1541, or 1542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95–588), if not a multiple of $1, shall be rounded down to the nearest dollar.

(Added Pub. L. 97–253, title IV, § 403(a)(1), Sept. 8, 1982, 96 Stat. 802, § 3023; renumbered § 5123, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406.)

REFERENCES IN TEXT

Section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95–588), referred to in text, is section 306(a) of Pub. L. 95–588, title III, Nov. 4, 1978, 92 Stat. 2508, which is set out as a note under section 1521 of this title.

PRIOR PROVISIONS

Prior sections 5201 to 5228 were renumbered sections 8501 to 8528 of this title, respectively.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3023 of this title as this section.

Pub. L. 102–83 substituted ''1521, 1541, or 1542'' for ''521, 541, or 542''.

EFFECTIVE DATE

Section 403(b) of Pub. L. 97–253, as amended by Pub. L. 98–21, title I, § 111(e), Apr. 20, 1983, 97 Stat. 73; Pub. L. 98–369, div. B, title VI, § 2662(j), July 18, 1984, 98 Stat. 1160, provided that:

''(1) Except as provided in paragraph (2), the amendment made by subsection (a)(1) [enacting this section] shall apply with respect to amounts payable for periods beginning after May 31, 1983.

''(2) In the cases of individuals to whom pension is payable under sections 521, 541, and 542 [now 1521, 1541, and 1542] of title 38, United States Code, the amendment made by subsection (a)(1) shall take effect on the first day after May 31, 1983, that an increase is made in maximum annual rates of pension pursuant to section 3112 [now 5312] of title 38, United States Code.''

§ 5124. Acceptance of claimant's statement as proof of relationship

(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

(1) Marriage.

(2) Dissolution of a marriage.

(3) Birth of a child.

(4) Death of any family member.

(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

(1) the claimant does not reside within a State;

(2) the statement on its face raises a question as to its validity;

(3) there is conflicting information of record; or

(4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.

(Added Pub. L. 103–446, title III, § 301(a), Nov. 2, 1994, 108 Stat. 4657.)

§ 5125. Acceptance of reports of private physician examinations

For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.

(Added Pub. L. 103–446, title III, § 301(b), Nov. 2, 1994, 108 Stat. 4658.)

§ 5126. Benefits not to be denied based on lack of mailing address

Benefits under laws administered by the Secretary may not be denied a claimant on the basis that the claimant does not have a mailing address.

(Added Pub. L. 106–475, § 3(b), Nov. 9, 2000, 114 Stat. 2098.)

CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

Sec.
5301. Nonassignability and exempt status of benefits.
5302. Waiver of recovery of claims by the United States.
5303. Certain bars to benefits.
5303A. Minimum active-duty service requirement.
5304. Prohibition against duplication of benefits.
5305. Waiver of retired pay.

Sec.
5306. Renouncement of right to benefits.
5307. Apportionment of benefits.
5308. Withholding benefits of persons in territory of the enemy.
5309. Payment of certain withheld benefits.
5310. Payment of benefits for month of death.
5311. Prohibition of certain benefit payments.
5312. Annual adjustment of certain benefit rates.
5313. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony.
5313A. Limitation on payment of clothing allowance to incarcerated veterans.
5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons.
5314. Indebtedness offsets.
5315. Interest and administrative cost charges on delinquent payments of certain amounts due the United States.
5316. Authority to sue to collect certain debts.
5317. Use of income information from other agencies: notice and verification.
5318. Review of Social Security Administration death information.
5319. Limitations on access to financial records.

AMENDMENTS

2003—Pub. L. 108–183, title VII, § 708(c)(4)(B)(ii), Dec. 16, 2003, 117 Stat. 2675, substituted ''Social Security Administration'' for ''Department of Health and Human Services'' in item 5318.

2001—Pub. L. 107–103, title V, § 505(a)(2), Dec. 27, 2001, 115 Stat. 996, added item 5313B.

1996—Pub. L. 104–275, title V, § 502(b), Oct. 9, 1996, 110 Stat. 3341, added item 5313A.

1992—Pub. L. 102–568, title VI, § 603(b)(2), Oct. 29, 1992, 106 Stat. 4343, added item 5319.

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3101 to 3118 as 5301 to 5318, respectively.

1990—Pub. L. 101–508, title VIII, §§ 8051(b)(2), 8053(b)(2), Nov. 5, 1990, 104 Stat. 1388–351, 1388–353, added items 3117 and 3118.

1981—Pub. L. 97–66, title VI, § 604(a)(2), Oct. 17, 1981, 95 Stat. 1036, added item 3103A.

1980—Pub. L. 96–466, title VI, § 605(a)(2), Oct. 17, 1980, 94 Stat. 2211, added items 3114, 3115, and 3116.

Pub. L. 96–385, title V, § 504(b), Oct. 7, 1980, 94 Stat. 1535, added item 3113.

1978—Pub. L. 95–588, title III, § 305(b), Nov. 4, 1978, 92 Stat. 2508, added item 3112.

1972—Pub. L. 92–328, title II, § 203, June 30, 1972, 86 Stat. 397, substituted ''claims by the United States'' for ''overpayments'' in item 3102.

1970—Pub. L. 91–376, § 8(c), Aug. 12, 1970, 84 Stat. 790, added item 3111.

1962—Pub. L. 87–825, § 4(b), Oct. 15, 1962, 76 Stat. 950, added item 3110.

§ 5301. Nonassignability and exempt status of benefits

(a)(1) Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments. The provisions of this section shall not be construed to prohibit the assignment of insurance otherwise authorized under chapter 19 of this title, or of servicemen's indemnity.

(2) For the purposes of this subsection, in any case where a payee of an educational assistance allowance has designated the address of an attorney-in-fact as the payee's address for the purpose of receiving a benefit check and has also executed a power of attorney giving the attorney-in-fact authority to negotiate such benefit check, such action shall be deemed to be an assignment and is prohibited.

(3)(A) This paragraph is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive such benefit by payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, except as provided in subparagraph (B), and including deposit into a joint account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

(B) Notwithstanding subparagraph (A), nothing in this paragraph is intended to prohibit a loan involving a beneficiary under the terms of which the beneficiary may use the benefit to repay such other person as long as each of the periodic payments made to repay such other person is separately and voluntarily executed by the beneficiary or is made by preauthorized electronic funds transfer pursuant to the Electronic Funds Transfers Act (15 U.S.C. 1693 et seq.).

(C) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited and is void from its inception.

(b) This section shall prohibit the collection by setoff or otherwise out of any benefits payable pursuant to any law administered by the Secretary and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (1) any person other than the indebted beneficiary or the beneficiary's estate; or (2) any beneficiary or the beneficiary's estate except amounts due the United States by such beneficiary or the beneficiary's estate by reason of overpayments or illegal payments made under such laws to such beneficiary or the beneficiary's estate or to the beneficiary's dependents as such. If the benefits referred to in the preceding sentence are insurance payable by reason of yearly renewable term insurance, United States Government life insurance, or National Service Life Insurance issued by the United States, the exemption provided in this section shall not apply to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness is in the form of liens to secure unpaid premiums or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits.

(c)(1) Notwithstanding any other provision of this section, the Secretary may, after receiving a request under paragraph (2) of this subsection relating to a veteran, collect by offset of any compensation or pension payable to the veteran under laws administered by the Secretary the uncollected portion of the amount of any indebtedness associated with the veteran's participation in a plan prescribed in chapter 73 of title 10.

(2) If the Secretary concerned (as defined in section 101(5) of title 37) has tried under section 3711(a) of title 31 to collect an amount described in paragraph (1) of this subsection in the case of any veteran, has been unable to collect such amount, and has determined that the uncollected portion of such amount is not collectible from amounts payable by that Secretary to the veteran or that the veteran is not receiving any payment from that Secretary, that Secretary may request the Secretary to make collections in the case of such veteran as authorized in paragraph (1) of this subsection.

(3)(A) A collection authorized by paragraph (1) of this subsection shall be conducted in accordance with the procedures prescribed in section 3716 of title 31 for administrative offset collections made after attempts to collect claims under section 3711(a) of such title.

(B) For the purposes of subparagraph (A) of this paragraph, as used in the second sentence of section 3716(a) of title 31—

(i) the term ''records of the agency'' shall be considered to refer to the records of the department of the Secretary concerned; and

(ii) the term ''agency'' in clauses (3) and (4) shall be considered to refer to such department.

(4) Funds collected under this subsection shall be credited to the Department of Defense Military Retirement Fund under chapter 74 of title 10 or to the Retired Pay Account of the Coast Guard, as appropriate.

(d) Notwithstanding subsection (a) of this section, payments of benefits under laws administered by the Secretary shall not be exempt from levy under subchapter D of chapter 64 of the Internal Revenue Code of 1986 (26 U.S.C. 6331 et seq.).

(e) In the case of a person who—

(1) has been determined to be eligible to receive pension or compensation under laws administered by the Secretary but for the receipt by such person of pay pursuant to any provision of law providing retired or retirement pay to members or former members of the Armed Forces or commissioned officers of the National Oceanic and Atmospheric Administration or of the Public Health Service; and

(2) files a waiver of such pay in accordance with section 5305 of this title in the amount of such pension or compensation before the end of the one-year period beginning on the date such person is notified by the Secretary of such person's eligibility for such pension or compensation,

the retired or retirement pay of such person shall be exempt from taxation, as provided in subsection (a) of this section, in an amount equal to the amount of pension or compensation which would have been paid to such person but for the receipt by such person of such pay.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1229, § 3101; Pub. L. 94–502, title VII, § 701, Oct. 15, 1976, 90 Stat. 2405; Pub. L. 95–479, title III, § 301, Oct. 18, 1978, 92 Stat. 1564; Pub. L. 97–295, § 4(74), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 99–576, title V, § 504, title VII, § 701(68), Oct. 28, 1986, 100 Stat. 3286, 3296; Pub. L. 101–189, div. A, title XIV, § 1404(b)(2), Nov. 29, 1989, 103 Stat. 1586; Pub. L. 102–25, title VII, § 705(c)(2), Apr. 6, 1991, 105 Stat. 120; renumbered § 5301 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(d)(2), June 13, 1991, 105 Stat. 285; Pub. L. 102–83, § 4(a)(1), (2)(A)(vii), (b)(1), (2)(E), (4)(C), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 102–86, title V, § 505(a), Aug. 14, 1991, 105 Stat. 426; Pub. L. 108–183, title VII, § 702, Dec. 16, 2003, 117 Stat. 2671.)

REFERENCES IN TEXT

The Electronic Funds Transfers Act, referred to in subsec. (a)(3)(B), probably means the Electronic Funds Transfer Act, title IX of Pub. L. 90–321, as added by Pub. L. 95–630, title XX, § 2001, Nov. 10, 1978, 92 Stat. 3728, as amended, which is classified generally to subchapter VI (§ 1693 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 inserted ''(1)'' after ''(a)'', designated last sentence as par. (2), and added par. (3).

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3101 of this title as this section.

Subsecs. (a), (b). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (c)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–25 made a technical correction to Pub. L. 101–189. See 1989 Amendment note below.

Subsec. (c)(2). Pub. L. 102–83, § 4(b)(4)(C), substituted ''that Secretary'' for second, third, and fourth references to ''the Secretary''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before ''to make''.

Subsec. (c)(4). Pub. L. 102–86 inserted before period at end ''or to the Retired Pay Account of the Coast Guard, as appropriate''.

Subsec. (d). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–54 amended subsec. (d) as in effect immediately before enactment of Pub. L. 102–40 by substituting ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954''.

Subsec. (e)(1). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (e)(2). Pub. L. 102–83, § 4(a)(2)(A)(vii), substituted ''Secretary'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''5305'' for ''3105''.

1989—Subsec. (c)(1). Pub. L. 101–189, as amended by Pub. L. 102–25, struck out ''subchapter I or II of'' after ''plan prescribed in''.

1986—Subsec. (a). Pub. L. 99–576, § 701(68)(A), substituted ''a'' for ''his or her'' before ''benefit check''.

Subsec. (b). Pub. L. 99–576, § 701(68)(B), substituted ''the beneficiary's'' for ''his'' in four places in first sentence.

Subsec. (c). Pub. L. 99–576, § 504(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d), (e). Pub. L. 99–576, § 504(1), redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

1982—Subsec. (c). Pub. L. 97–295 inserted ''of this section'' after ''subsection (a)'', and substituted ''(26 U.S.C. 6331 et seq.)'' for ''(relating to seizure of property for collection of taxes)''.

1978—Subsec. (d). Pub. L. 95–479 added subsec. (d).

1976—Subsec. (a). Pub. L. 94–502 inserted provision which prohibits, as an assignment, a payee of an educational assistance allowance from designating an attorney-in-fact's address as the payee's address for the purpose of receiving checks and benefits where the attorney-in-fact has also been given authority to negotiate the checks and benefits.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 505(b) of Pub. L. 102–86 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to funds collected after September 30, 1991.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 effective Apr. 1, 1992, see section 1404(b)(3) of Pub. L. 101–189, as amended, set out as a note under section 12731 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401 of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–502 effective Dec. 1, 1976, see section 703(c) of Pub. L. 94–502, set out as an Effective Date note under section 3693 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

UNDUE HARDSHIP CASES

Pub. L. 95–202, title III, § 305(c), Nov. 23, 1977, 91 Stat. 1444, provided that Administrator could provide equitable relief to educational institutions and accredited correspondence schools which were in possession of a veteran's or eligible person's benefit check payable to the veteran or person and mailed to the institution or school for certain courses or lessons completed by the veteran or person at the institution or school before certain dates in 1977 and which were holding a power of attorney executed by the veteran or person before Dec. 1, 1976, authorizing negotiation of the check.

§ 5302. Waiver of recovery of claims by the United States

(a) There shall be no recovery of payments or overpayments (or any interest thereon) of any benefits under any of the laws administered by the Secretary whenever the Secretary determines that recovery would be against equity and good conscience, if an application for relief is made within 180 days from the date of notification of the indebtedness by the Secretary to the payee, or within such longer period as the Secretary determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Secretary that such notification was not actually received by such payee within a reasonable period after such date. The Secretary shall include in the notification to the payee a statement of the right of the payee to submit an application for a waiver under this subsection and a description of the procedures for submitting the application.

(b) With respect to any loan guaranteed, insured, or made under chapter 37 of this title, the Secretary shall, except as provided in subsection (c) of this section, waive payment of an indebtedness to the Department by the veteran (as defined in sections 101, 3701, and 3702(a)(2)(C)(ii) of this title), or the veteran's spouse, following default and loss of the property, where the Secretary determines that collection of such indebtedness would be against equity and good conscience. An application for relief under this subsection must be made within one year after the date on which the veteran receives notice by certified mail with return receipt requested from the Secretary of the indebtedness. The Secretary shall include in the notification a statement of the right of the veteran to submit an application for a waiver under this subsection and a description of the procedures for submitting the application.

(c) The recovery of any payment or the collection of any indebtedness (or any interest thereon) may not be waived under this section if, in the Secretary's opinion, there exists in connection with the claim for such waiver an indication of fraud, misrepresentation or bad faith on the part of the person or persons having an interest in obtaining a waiver of such recovery or the collection of such indebtedness (or any interest thereon).

(d) No certifying or disbursing officer shall be liable for any amount paid to any person where the recovery of such amount is waived under subsection (a) or (b).

(e) Where the recovery of a payment or overpayment made from the National Service Life Insurance Fund or United States Government Life Insurance Fund is waived under this section, the fund from which the payment was made shall be reimbursed from the National Service Life Insurance appropriation or the military and naval insurance appropriation, as applicable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1230, § 3102; Pub. L. 92–328, title II, § 202(a), June 30, 1972, 86 Stat. 396; Pub. L. 96–466, title VI, § 605(c)(3), Oct. 17, 1980, 94 Stat. 2211; Pub. L. 97–306, title IV, § 407(a), Oct. 14, 1982, 96 Stat. 1445; Pub. L. 99–576, title VII, § 701(69), Oct. 28, 1986, 100 Stat. 3296; Pub. L. 101–237, title III, § 311, Dec. 18, 1989, 103 Stat. 2075; renumbered § 5302, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 5, June 13, 1991, 105 Stat. 268; Pub. L. 102–83, §§ 4(a)(1), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–547, § 12, Oct. 28, 1992, 106 Stat. 3645; Pub. L. 105–33, title VIII, § 8033(b), Aug. 5, 1997, 111 Stat. 669.)

AMENDMENTS

1997—Subsec. (b). Pub. L. 105–33 inserted ''with return receipt requested'' after ''certified mail''.

1992—Subsecs. (a), (b). Pub. L. 102–547 made technical correction to directory language of Pub. L. 102–54, § 5. See 1991 Amendment note below.

1991—Pub. L. 102–40 renumbered section 3102 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in four places.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–54, § 5(1), as amended by Pub. L. 102–547, inserted at end ''The Secretary shall include in the notification to the payee a statement of the right of the payee to submit an application for a waiver under this subsection and a description of the procedures for submitting the application.''

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3701'' and ''3702(a)(2)(C)(ii)'' for ''1801'' and ''1802(a)(2)(C)(ii)'', respectively.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in first sentence.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–54, § 5(2), as amended by Pub. L. 102–547, substituted ''101, 1801, and 1802(a)(2)(C)(ii) of this title'' for ''101 and 1801'' and inserted at end ''An application for relief under this subsection must be made within one year after the date on which the veteran receives notice by certified mail from the Secretary of the indebtedness. The Secretary shall include in the notification a statement of the right of the veteran to submit an application for a waiver under this subsection and a description of the procedures for submitting the application.''

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary's'' for ''Administrator's''.

1989—Subsec. (b). Pub. L. 101–237, § 311(1), substituted ''shall, except as provided in subsection (c) of this section,'' for ''may''.

Subsec. (c). Pub. L. 101–237, § 311(2), substituted ''The recovery of any payment or the collection of any indebtedness (or any interest thereon) may not be waived under this section'' for ''The Administrator may not exercise the Administrator's authority under subsection (a) or (b) of this section to waive recovery of any payment or the collection of any indebtedness (or any interest thereon)'' and substituted ''or bad faith'' for '', material fault, or lack of good faith''.

1986—Subsec. (b). Pub. L. 99–576, § 701(69)(A), substituted ''the veteran's'' for ''his'' before ''spouse''.

Subsec. (c). Pub. L. 99–576, § 701(69)(B), substituted ''the Administrator's'' for ''his'' in two places.

1982—Subsec. (a). Pub. L. 97–306 substituted ''180 days'' for ''two years'', and inserted condition relating to such longer period as the Administrator determines is reasonable in cases demonstrated to involve actual failure of notification to payee.

1980—Subsec. (a). Pub. L. 96–466, § 605(c)(3)(A), inserted ''(or any interest thereon)'' after ''overpayments''.

Subsec. (c). Pub. L. 96–466, § 605(c)(3)(B), inserted ''(or any interest thereon)'' after ''indebtedness'' in two places.

1972—Pub. L. 92–328 substituted ''claims by the United States'' for ''overpayments'' in section catchline, struck out ''(except servicemen's indemnity)'' after ''any benefits'' in subsec. (a), struck out provisions relating to recovery of benefits from any person without fault on his part, and inserted provisions relating to an application for relief made within two years from the date of notification of the indebtedness by the Administrator to the payee, added subsecs. (b) and (c), redesignated former subsec. (b) as (d), and inserted reference to subsec. (b), and redesignated former subsec. (c) as (e).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 applicable with respect to any indebtedness to the United States arising pursuant to chapter 37 of this title before, on, or after Aug. 5, 1997, see section 8033(c) of Pub. L. 105–33, set out as a note under section 3726 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 407(b) of Pub. L. 97–306 provided that: ''The amendments made by subsection (a) [amending this section] shall apply only with respect to notifications of indebtedness that are made by the Administrator of Veterans' Affairs after March 31, 1983.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective June 30, 1972, see section 301(c) of Pub. L. 92–328, set out as a note under section 3713 of this title.

APPLICABILITY OF WAIVER AUTHORITY TO IMPROPER PAYMENTS, OVERPAYMENTS, AND INDEBTEDNESS ESTABLISHED BY THE ADMINISTRATOR PRIOR TO EFFECTIVE DATE OF PUB. L. 92–328

Section 202(b) of Pub. L. 92–328 provided that the waiver authority under subsec. (a) of this section is applicable to improper payments, overpayments, and indebtedness established by the Administrator prior to the effective date of Pub. L. 92–328 if application for relief was pending on June 30, 1972, or such an application was made within two years from June 30, 1972.

For effective date of Pub. L. 92–328, see Effective Date of 1972 Amendment notes set out under sections 1114, 1134, and 3713 of this title.

§ 5303. Certain bars to benefits

(a) The discharge or dismissal by reason of the sentence of a general court-martial of any person from the Armed Forces, or the discharge of any such person on the ground that such person was a conscientious objector who refused to perform military duty or refused to wear the uniform or otherwise to comply with lawful orders of competent military authority, or as a deserter, or on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Secretary that there are compelling circumstances to warrant such prolonged unauthorized absence, or of an officer by the acceptance of such officer's resignation for the good of the service, or (except as provided in subsection (c)) the discharge of any individual during a period of hostilities as an alien, shall bar all rights of such person under laws administered by the Secretary based upon the period of service from which discharged or dismissed, notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of title 10.

(b) Notwithstanding subsection (a), if it is established to the satisfaction of the Secretary that, at the time of the commission of an offense leading to a person's court-martial, discharge, or resignation, that person was insane, such person shall not be precluded from benefits under laws administered by the Secretary based upon the period of service from which such person was separated.

(c) Subsection (a) shall not apply to any alien whose service was honest and faithful, and who was not discharged on the individual's own application or solicitation as an alien. No individual shall be considered as having been discharged on the individual's own application or solicitation as an alien in the absence of affirm-

ative evidence establishing that the individual was so discharged.

(d) This section shall not apply to any war-risk insurance, Government (converted) or National Service Life Insurance policy.

(e)(1) Notwithstanding any other provision of law, (A) no benefits under laws administered by the Secretary shall be provided, as a result of a change in or new issuance of a discharge under section 1553 of title 10, except upon a case-by-case review by the board of review concerned, subject to review by the Secretary concerned, under such section, of all the evidence and factors in each case under published uniform standards (which shall be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying such change or issuance) and procedures generally applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions; and (B) any such person shall be afforded an opportunity to apply for such review under such section 1553 for a period of time terminating not less than one year after the date on which such uniform standards and procedures are promulgated and published.

(2) Notwithstanding any other provision of law—

(A) no person discharged or released from active military, naval, or air service under other than honorable conditions who has been awarded a general or honorable discharge under revised standards for the review of discharges, (i) as implemented by the President's directive of January 19, 1977, initiating further action with respect to the President's Proclamation 4313 of September 16, 1974, (ii) as implemented on or after April 5, 1977, under the Department of Defense's special discharge review program, or (iii) as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from active military, naval, or air service under other than honorable conditions, shall be entitled to benefits under laws administered by the Secretary except upon a determination, based on a case-by-case review, under standards (meeting the requirements of paragraph (1) of this subsection) applied by the board of review concerned under section 1553 of title 10, subject to review by the Secretary concerned, that such person would be awarded an upgraded discharge under such standards; and

(B) such determination shall be made by such board (i) on an expedited basis after notification by the Department to the Secretary concerned that such person has received, is in receipt of, or has applied for such benefits or after a written request is made by such person or such determination, (ii) on its own initiative before October 9, 1978, in any case where a general or honorable discharge has been awarded before October 9, 1977, under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph, or (iii) on its own initiative at the time a general or honorable discharge is so awarded in any case where a general or honorable discharge is awarded after October 8, 1977.

If such board makes a preliminary determination that such person would not have been awarded an upgraded discharge under standards meeting the requirements of paragraph (1) of this subsection, such person shall be entitled to an appearance before the board, as provided for in section 1553(c) of title 10, prior to a final determination on such question and shall be given written notice by the board of such preliminary determination and of the right to such appearance. The Secretary shall, as soon as administratively feasible, notify the appropriate board of review of the receipt of benefits under laws administered by the Secretary, or of the application for such benefits, by any person awarded an upgraded discharge under revised standards referred to in clause (A)(i), (ii), or (iii) of this paragraph with respect to whom a favorable determination has not been made under this paragraph.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1230, § 3103; Pub. L. 86–113, July 28, 1959, 73 Stat. 262; Pub. L. 95–126, § 1(a), Oct. 8, 1977, 91 Stat. 1106; Pub. L. 97–295, § 4(75), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 99–576, title VII, § 701(70), Oct. 28, 1986, 100 Stat. 3296; renumbered § 5303, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

REFERENCES IN TEXT

President's Proclamation 4313 of September 16, 1974, referred to in subsec. (e)(2)(A), is set out as a note under section 462 of Title 50, Appendix, War and National Defense.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3103 of this title as this section.

Subsecs. (a), (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (e)(1). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (e)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in last sentence.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in subpar. (B).

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in subpar. (A) and last sentence.

1986—Subsec. (a). Pub. L. 99–576, § 701(70)(A), substituted ''such person'' for ''he'' after ''on the ground that'' and ''such officer's'' for ''his'' before ''resignation''.

Subsec. (b). Pub. L. 99–576, § 701(70)(B), substituted ''a person's'' for ''his'', ''that person'' for ''any person'', and ''such person'' for ''he'' before ''was separated''.

Subsec. (c). Pub. L. 99–576, § 701(70)(C), substituted ''the individual's'' for ''his'' in two places, and ''the individual'' for ''he''.

Subsec. (e)(2). Pub. L. 99–576, § 701(70)(D), substituted ''the'' for ''his or her'' before ''right to such appearance'' at end of second sentence.

1982—Subsec. (e)(2)(B). Pub. L. 97–295 substituted ''before October 9, 1978,'' for ''within one year after the date of enactment of this paragraph'', ''before October 9, 1977,'' for ''on or prior to the date of enactment of this paragraph'', and ''October 8, 1977'' for ''such enactment date''.

1977—Subsec. (a). Pub. L. 95–126, § 1(a)(1), inserted provisions barring a person in the Armed Forces from

being a recipient of benefits when discharged on the basis of an absence without authority from active duty for a continuous period of at least one hundred and eighty days if such person was discharged under conditions other than honorable unless such person demonstrates to the satisfaction of the Administrator that there are compelling circumstances to warrant such prolonged unauthorized absence and barred benefits notwithstanding any action subsequent to the date of such discharge by a board established pursuant to section 1553 of Title 10.

Subsec. (e). Pub. L. 95–126, § 1(a)(2), added subsec. (e).

1959—Subsec. (c). Pub. L. 86–113 required affirmative evidence to establish that alien was discharged on his own application or solicitation.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95–126 provided that: ''This Act [amending this section and section 101 of this title and enacting provisions set out below] shall become effective on the date of its enactment [Oct. 8, 1977], except that—

''(1) section 2 [set out below] shall become effective on October 1, 1977, or on such enactment date, whichever is later; and

''(2) the amendments made by section 1(a) [amending this section] shall apply retroactively to deny benefits under laws administered by the Veterans' Administration, except that, notwithstanding any other provision of law—

''(A) with respect to any person who, on such enactment date [Oct. 8, 1977] is receiving benefits under laws administered by the Veterans' Administration, (i) such benefits shall not be terminated under paragraph (2) of section 3103(e) [now 5303(e)] of title 38, United States Code, as added by section 1(a)(2) of this Act, until (I) the day on which a final determination not favorable to the person concerned is made on an expedited basis under paragraph (2) of such section 3103(e) [now 5303(e)], (II) the day following the expiration of ninety days after a preliminary determination not favorable to such person is made under such paragraph, or (III) the day following the expiration of one hundred and eighty days after such enactment date, whichever day is the earliest, and (ii) the United States shall not make any claim to recover the value of any benefits provided to such person prior to such earliest day;

''(B) with respect to any person awarded a general or honorable discharge under revised standards for the review of discharges referred to in clause (A) (i), (ii), or (iii) of such paragraph who has been provided any such benefits prior to such enactment date [Oct. 8, 1977], the United States shall not make any claim to recover the value of any benefits so provided; and

''(C) the amendments made by clause (1) of section 1(a) [amending this section] shall apply (i) retroactively only to persons awarded general or honorable discharges under such revised standards and to persons who, prior to the date of enactment of this Act [Oct. 8, 1977], had not attained general eligibility for such benefits by virtue of (I) a change in or new issuance of a discharge under section 1553 of title 10, United States Code, or (II) any other provision of law, and (ii) prospectively (on and after such enactment date) to all other persons.''

EXPEDITED DETERMINATIONS AFTER INFORMATION AND NOTIFICATION TO PERSONS AWARDED GENERAL OR HONORABLE DISCHARGES; PROCEDURES FOR APPLICATION TO TITLE 10 § 1552 BOARD AND TO SECRETARY OF VETERANS AFFAIRS

Pub. L. 95–126, § 1(b), Oct. 8, 1977, 91 Stat. 1107, as amended by Pub. L. 100–527, § 10(1), (2), Oct. 25, 1988, 102 Stat. 2640, 2641; Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239, provided that:

''(1) The Secretary of Defense shall fully inform each person awarded a general or honorable discharge under revised standards for the review of discharges referred to in section 5303(e)(2)(A)(i), (ii), or (iii) [formerly 3103(e)(2)(A)(i), (ii), or (iii)] of title 38, United States Code, as added by subsection (a)(2) of this section, of his or her right to obtain an expedited determination under section 5303(e)(2)(B)(i) [formerly 3103(e)(2)(B)(i)] of such title and of the implications of the provisions of this Act [amending this section and section 101(18) of this title and enacting provisions set out as notes under this section] for each such person.

''(2) Notwithstanding any other provision of law, the Secretary of Defense shall inform each person who applies to a board of review under section 1553 of title 10, United States Code, and who appears to have been discharged under circumstances which might constitute a bar to benefits under section 5303(a) [formerly 3103(a)] of title 38, United States Code, (A) that such person might possibly be administratively found to be entitled to benefits under laws administered by the Department of Veterans Affairs only through the action of a board for the correction of military records under section 1552 of such title 10 or the action of the Secretary of Veterans Affairs under section 5303 [formerly 3103] of such title 38, and (B) of the procedures for making application to such section 1552 board for such purpose and to the Secretary of Veterans Affairs for such purpose (including the right to proceed concurrently under such sections 5303 [formerly 3103], 1552, and 1553).''

HEALTH CARE AND BENEFITS FOR DISABILITY DURING ACTIVE SERVICE IN LINE OF DUTY, EXCEPT WHEN BARRED UNDER SUBSEC. (a) OR BY BAD CONDUCT DISCHARGE

Pub. L. 95–126, § 2, Oct. 8, 1977, 91 Stat. 1107, as amended by Pub. L. 100–527, § 10(1), Oct. 25, 1988, 102 Stat. 2640; Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239, provided that: ''Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall provide the type of health care and related benefits authorized to be provided under chapter 17 of title 38, United States Code, for any disability incurred or aggravated during active military, naval, or air service in line of duty by a person other than a person barred from receiving benefits by section 5303(a) [formerly 3103(a)] of such title, but shall not provide such health care and related benefits pursuant to this section for any disability incurred or aggravated during a period of service from which such person was discharged by reason of a bad conduct discharge.''

REGULATIONS RESPECTING STANDARDS AND PROCEDURES FOR DETERMINATION OF SEPARATION FROM ACTIVE SERVICE UNDER CONDITIONS OTHER THAN DISHONORABLE FREE OF UNIQUE OR SPECIAL ADVANTAGES OR SPECIAL DISTINCTIONS BETWEEN VETERANS

Pub. L. 95–126, § 4, Oct. 8, 1977, 91 Stat. 1108, as amended by Pub. L. 100–527, § 10(1), (2), Oct. 25, 1988, 102 Stat. 2640; Pub. L. 102–40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239, provided that: ''In promulgating, or making any revisions of or amendments to, regulations governing the standards and procedures by which the Department of Veterans Affairs determines whether a person was discharged or released from active military, naval, or air service under conditions other than dishonorable, the Secretary of Veterans Affairs shall, in keeping with the spirit and intent of this Act [amending this section and section 101(18) of this title and enacting provisions set out as notes under this section], not promulgate any such regulations or revise or amend any such regulations for the purpose of, or having the effect of, (1) providing any unique or special advantage to veterans awarded general or honorable discharges under revised standards for the review of discharges described in section 5303(e)(2)(A)(i), (ii), or (iii) [formerly 3103(e)(2)(A)(i), (ii), or (iii)] of title 38, United States Code, as added by section 1(a)(2) of this Act, or (2) otherwise making any special distinction between such veterans and other veterans.''

§ 5303A. Minimum active-duty service requirement

(a) Notwithstanding any other provision of law, any requirements for eligibility for or entitlement to any benefit under this title or any other law administered by the Secretary that are based on the length of active duty served by a person who initially enters such service after September 7, 1980, shall be exclusively as prescribed in this title.

(b)(1) Except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) 24 months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under this title or any other law administered by the Secretary.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty after October 16, 1981, and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to a person who is discharged or released from active duty under section 1171 or 1173 of title 10;

(B) to a person who is discharged or released from active duty for a disability incurred or aggravated in line of duty;

(C) to a person who has a disability that the Secretary has determined to be compensable under chapter 11 of this title;

(D) to the provision of a benefit for or in connection with a service-connected disability, condition, or death;

(E) to benefits under chapter 19 of this title;

(F) to benefits under chapter 30 or chapter 37 of this title by reason of—

(i) a discharge or release from active duty for the convenience of the Government, as described in sections 3011(a)(1)(A)(ii)(II) and 3012(b)(1)(A)(iv) of this title;

(ii) a discharge or release from active duty for a medical condition which preexisted service on active duty and which the Secretary determines is not service connected, as described in clauses (A)(ii)(I) and (B)(ii)(I) of section 3011(a)(1) of this title and in section 3012(b)(1)(A)(ii) of this title;

(iii) an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, as described in clauses (A)(ii)(III) and (B)(ii)(III) of section 3011(a)(1) of this title and in section 3012(b)(1)(A)(v) of this title; or

(iv) a discharge or release from active duty for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as described in section 3011(a)(1)(A)(ii)(I) of this title; or

(G) to benefits under chapter 43 of this title.

(c)(1) Except as provided in paragraph (2) of this subsection, no dependent or survivor of a person as to whom subsection (b) of this section requires the denial of benefits shall, by reason of such person's period of active duty, be provided with any benefit under this title or any other law administered by the Secretary.

(2) Paragraph (1) of this subsection does not apply to benefits under chapters 19 and 37 of this title.

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) 24 months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for any benefit under Federal law (other than this title or any other law administered by the Secretary), and no dependent or survivor of such person shall be eligible for any such benefit by reason of such period of active duty of such person.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty after October 13, 1982, and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to any person described in clause (A), (B), or (C) of subsection (b)(3) of this section; or

(B) with respect to a benefit under (i) the Social Security Act other than additional wages deemed to have been paid, under section 229(a)[1] of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning after October 13, 1982, or (ii) title 5 other than a benefit based on meeting the definition of preference eligible in section 2108(3) of such title.

(e) For the purposes of this section, the term ''benefit'' includes a right or privilege, but does not include a refund of a participant's contributions to the educational benefits program provided by chapter 32 of this title.

(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.

(Added Pub. L. 97–66, title VI, § 604(a)(1), Oct. 17, 1981, 95 Stat. 1035, § 3103A; amended Pub. L. 97–306, title IV, § 408(a), Oct. 14, 1982, 96 Stat. 1445; Pub. L. 99–576, title III, § 321(11), Oct. 28,

[1] See References in Text note below.

1986, 100 Stat. 3278; Pub. L. 100–689, title I, § 102(b)(3), Nov. 18, 1988, 102 Stat. 4163; Pub. L. 101–510, div. A, title V, § 562(a)(4), Nov. 5, 1990, 104 Stat. 1574; renumbered § 5303A, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 103–353, § 3, Oct. 13, 1994, 108 Stat. 3169; Pub. L. 103–446, title IX, § 908, Nov. 2, 1994, 108 Stat. 4678; Pub. L. 105–368, title X, § 1005(b)(15), Nov. 11, 1998, 112 Stat. 3365.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(3)(B)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Section 229(a) of the Act was redesignated section 229 by Pub. L. 108–203, title IV, § 420(b)(1)(A), Mar. 2, 2004, 118 Stat. 535. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (d)(2)(B). Pub. L. 105–368, § 1005(b)(15)(A), substituted ''after October 13, 1982,'' for ''on or after the date of the enactment of this subsection''.

Subsec. (d)(3)(B)(i). Pub. L. 105–368, § 1005(b)(15)(B), substituted ''after October 13, 1982,'' for ''on or after the date of the enactment of this subsection,''.

1994—Subsec. (b)(3)(F). Pub. L. 103–446 inserted ''or chapter 37'' after ''chapter 30'' in introductory provisions.

Subsec. (b)(3)(G). Pub. L. 103–353 added subpar. (G).

1991—Pub. L. 102–40 renumbered section 3103A of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b)(1). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in concluding provisions.

Subsec. (b)(3)(C). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(3)(F)(i). Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)(A)(ii)(II)'' and ''3012(b)(1)(A)(iv)'' for ''1411(a)(1)(A)(ii)(II)'' and ''1412(b)(1)(A)(iv)'', respectively.

Subsec. (b)(3)(F)(ii). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)'' for ''1411(a)(1)'' and ''3012(b)(1)(A)(ii)'' for ''1412(b)(1)(A)(ii)''.

Subsec. (b)(3)(F)(iii). Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)'' for ''1411(a)(1)'' and ''3012(b)(1)(A)(v)'' for ''1412(b)(1)(A)(v)''.

Subsec. (b)(3)(F)(iv). Pub. L. 102–83, § 5(c)(1), substituted ''3011(a)(1)(A)(ii)(I)'' for ''1411(a)(1)(A)(ii)(I)''.

Subsecs. (c)(1), (d)(1). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1990—Subsec. (b)(3)(F)(iv). Pub. L. 101–510 added cl. (iv).

1988—Subsec. (b)(3)(F). Pub. L. 100–689 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''to benefits under chapter 30 of this title in the case of a person entitled to benefits under such chapter by reason of section 1411(a)(1)(A)(ii)(II) of this title.''

1986—Subsec. (b)(3)(F). Pub. L. 99–576 added subpar. (F).

1982—Subsec. (b)(2)(B). Pub. L. 97–306, § 408(a)(1), substituted ''after October 16, 1981,'' for ''on or after the date of the enactment of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981''.

Subsecs. (d), (e). Pub. L. 97–306, § 408(a)(2), added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (f). Pub. L. 97–306, § 408(a)(3), added subsec. (f).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103–353, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE

Section effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as an Effective Date of 1981 Amendment note under section 1114 of this title.

DELAYED APPLICATION OF EXCLUSION; ADDITIONAL WAGES CONSIDERED BENEFIT

Section 408(b) of Pub. L. 97–306 provided that:

''(1) Subsection (d) of section 3103A [now 5303A] of title 38, United States Code, as added by subsection (a)(2), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act [Oct. 14, 1982].

''(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that such person was discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).''

SCOPE OF EXCLUSION

Section 408(d) of Pub. L. 97–306 provided that: ''Section 3103A [now 5303A] of title 38, United States Code, as amended by subsection (a), is the law with respect to the matters stated in such section and applies, in accordance with its terms, with respect to benefits under Federal law, regardless of the particular title of the United States Code or other law under which any such benefit is provided or the department, agency, or instrumentality which administers any such benefit.''

APPLICABILITY

Section 604(b) of Pub. L. 97–66 provided that: ''Section 5303A [formerly 3103A] of title 38, United States Code, as added by subsection (a), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act [Oct. 17, 1981]. Notwithstanding such section, a person who before such date has received a certificate of eligibility from the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] for benefits under chapter 37 of title 38, United States Code, is eligible for such benefits after such date.''

§ 5304. Prohibition against duplication of benefits

(a)(1) Except as provided in section 1414 of title 10 or to the extent that retirement pay is waived under other provisions of law, not more than one award of pension, compensation, emergency offi-

cers', regular, or reserve retirement pay, or initial award of naval pension granted after July 13, 1943, shall be made concurrently to any person based on such person's own service or concurrently to any person based on the service of any other person.

(2) Notwithstanding the provisions of paragraph (1) of this subsection and of section 5305 of this title, pension under section 1521 or 1541 of this title may be paid to a person entitled to receive retired or retirement pay described in section 5305 of this title concurrently with such person's receipt of such retired or retirement pay if the annual amount of such retired or retirement pay is counted as annual income for the purposes of chapter 15 of this title.

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection and in section 1521(i) of this title, the receipt of pension, compensation, or dependency and indemnity compensation by a surviving spouse, child, or parent on account of the death of any person, or receipt by any person of pension or compensation on account of such person's own service, shall not bar the payment of pension, compensation, or dependency and indemnity compensation on account of the death or disability of any other person.

(2) Benefits other than insurance under laws administered by the Secretary may not be paid or furnished to or on account of any child by reason of the death of more than one parent in the same parental line; however, the child may elect one or more times to receive benefits by reason of the death of any one of such parents.

(3) Benefits other than insurance under laws administered by the Secretary may not be paid to any person by reason of the death of more than one person to whom such person was married; however, the person may elect one or more times to receive benefits by reason of the death of any one spouse.

(c) Pension, compensation, or retirement pay on account of any person's own service shall not be paid to such person for any period for which such person receives active service pay.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1230, § 3104; Pub. L. 86–495, § 1, June 8, 1960, 74 Stat. 163; Pub. L. 88–664, § 9, Oct. 13, 1964, 78 Stat. 1096; Pub. L. 91–376, § 6, Aug. 12, 1970, 84 Stat. 790; Pub. L. 95–588, title III, § 304, Nov. 4, 1978, 92 Stat. 2507; Pub. L. 96–385, title V, § 503(a), Oct. 7, 1980, 94 Stat. 1534; Pub. L. 99–576, title VII, § 701(71), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5304 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(1), 5(c)(1), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 108–454, title III, § 308(a), Dec. 10, 2004, 118 Stat. 3614.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–454 inserted ''as provided in section 1414 of title 10 or'' after ''Except''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3104 of this title as this section.

Subsec. (a)(2). Pub. L. 102–83, § 5(c)(1), substituted ''1521'' and ''1541'' for ''521'' and ''541'', respectively.

Pub. L. 102–40, § 402(d)(1), substituted ''5305'' for ''3105'' in two places.

Subsec. (b)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1521(i)'' for ''521(i)''.

Subsec. (b)(2), (3). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Subsec. (a)(1). Pub. L. 99–576, § 701(71)(A), substituted ''such person's'' for ''his''.

Subsec. (b)(1). Pub. L. 99–576, § 701(71)(B)(i), (ii), substituted ''surviving spouse'' for ''widow'' and ''such person's'' for ''his''.

Subsec. (b)(3). Pub. L. 99–576, § 701(71)(B)(iii), substituted ''such person'' for ''he or she''.

Subsec. (c). Pub. L. 99–576, § 701(71)(C), substituted ''any person's'' for ''his'', ''to such person'' for ''to any person'', and ''such person'' for ''he''.

1980—Subsec. (a). Pub. L. 96–385 designated existing provisions as par. (1) and added par. (2).

1978—Subsec. (b)(1). Pub. L. 95–588 inserted ''of this subsection and in section 521(i) of this title'' after ''(2) and (3)''.

1970—Subsec. (b)(1), (3). Pub. L. 91–376 inserted reference to par. (3) in par. (1) and added par. (3).

1964—Subsec. (a). Pub. L. 88–664 inserted ''or concurrently to any person based on the service of any other person'' after ''own service''.

1960—Subsec. (b)(2). Pub. L. 86–495 substituted provisions prohibiting the payment or furnishing of benefits other than insurance to or on account of any child by reason of the death of more than one parent in the same parental line, and permitting the child to elect one or more times to receive benefits by reason of the death of any one of such parents, for provisions which prohibited the payment of dependency and indemnity compensation to or on account of a child by reason of the death of another parent where the child receives or there is paid by the Veterans' Administration on account of a child dependency and indemnity compensation, or death compensation, by reason of the death of a parent.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–376 effective Jan. 1, 1971, see section 9 of Pub. L. 91–376, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–664 effective Jan. 1, 1965, see section 11 of Pub. L. 88–664, set out as a note under section 1503 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Section 2 of Pub. L. 86–495 provided that: ''The amendment made by this Act [amending this section] shall apply only to cases where the death of a parent occurs after the date of enactment of this Act [June 8, 1960].''

§ 5305. Waiver of retired pay

Except as provided in section 1414 of title 10, any person who is receiving pay pursuant to any provision of law providing retired or retirement pay to persons in the Armed Forces, or as a commissioned officer of the National Oceanic and Atmospheric Administration or of the Public Health Service, and who would be eligible to receive pension or compensation under the laws administered by the Secretary if such person were not receiving such retired or retirement pay, shall be entitled to receive such pension or compensation upon the filing by such person with the department by which such retired or

retirement pay is paid of a waiver of so much of such person's retired or retirement pay as is equal in amount to such pension or compensation. To prevent duplication of payments, the department with which any such waiver is filed shall notify the Secretary of the receipt of such waiver, the amount waived, and the effective date of the reduction in retired or retirement pay.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1231, § 3105; Pub. L. 91–621, § 6(a)(3), Dec. 31, 1970, 84 Stat. 1864; Pub. L. 99–576, title VII, § 701(72), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5305, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (2)(A)(viii), Aug. 6, 1991, 105 Stat. 403; Pub. L. 108–454, title III, § 308(b), Dec. 10, 2004, 118 Stat. 3614.)

AMENDMENTS

2004—Pub. L. 108–454 substituted ''Except as provided in section 1414 of title 10, any'' for ''Any'' in first sentence.

1991—Pub. L. 102–40 renumbered section 3105 of this title as this section.

Pub. L. 102–83, § 4(a)(2)(A)(viii), substituted ''Secretary'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''such person'' for ''he'' and ''such person's'' for ''his''.

1970—Pub. L. 91–621 substituted ''National Oceanic and Atmospheric Administration'' for ''Coast and Geodetic Survey''.

§ 5306. Renouncement of right to benefits

(a) Any person entitled to pension, compensation, or dependency and indemnity compensation under any of the laws administered by the Secretary may renounce the right thereto. The application renouncing the right shall be in writing over the person's signature. Upon the filing of such an application, payment of such benefits and the right thereto shall be terminated, and such person shall be denied any and all rights thereto from such filing.

(b) Renouncement of rights shall not preclude any person from filing a new application for pension, compensation, or dependency and indemnity compensation at a later date, but such new application shall be treated as an original application, and no payments shall be made for any period before the date such new application is filed.

(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1231, § 3106; Pub. L. 99–576, title VII, § 701(73), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5306, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403; Pub. L. 103–446, title V, § 503, Nov. 2, 1994, 108 Stat. 4663.)

AMENDMENTS

1994—Subsec. (c). Pub. L. 103–446 added subsec. (c).

1991—Pub. L. 102–40 renumbered section 3106 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Subsec. (a). Pub. L. 99–576 substituted ''the'' for ''his'' before ''right'' in first sentence.

§ 5307. Apportionment of benefits

(a) All or any part of the compensation, pension, or emergency officers' retirement pay payable on account of any veteran may—

(1) if the veteran is being furnished hospital treatment, institutional, or domiciliary care by the United States, or any political subdivision thereof, be apportioned on behalf of the veteran's spouse, children, or dependent parents; and

(2) if the veteran is not living with the veteran's spouse, or if the veteran's children are not in the custody of the veteran, be apportioned as may be prescribed by the Secretary.

(b) Where any of the children of a deceased veteran are not in the custody of the veteran's surviving spouse, the pension, compensation, or dependency and indemnity compensation otherwise payable to the surviving spouse may be apportioned as prescribed by the Secretary.

(c) If a veteran is not living with the veteran's spouse, or if any of the veteran's children are not in the custody of the veteran, any subsistence allowance payable to the veteran under chapter 31 of this title or that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title may be apportioned as may be prescribed by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1231, § 3107; Pub. L. 92–540, title V, § 505, Oct. 24, 1972, 86 Stat. 1099; Pub. L. 98–160, title VII, § 703(2), Nov. 21, 1983, 97 Stat. 1010; renumbered § 5307, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3107 of this title as this section.

Subsecs. (a)(2), (b), (c). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

1983—Subsec. (a)(1). Pub. L. 98–160, § 703(2)(A), substituted ''the veteran's spouse'' for ''his wife''.

Subsec. (a)(2). Pub. L. 98–160, § 703(2)(A)–(C), substituted ''the veteran's spouse'' for ''his wife'', ''the veteran's children'' for ''his children'', and ''the custody of the veteran'' for ''his custody''.

Subsec. (b). Pub. L. 98–160, § 703(2)(D), substituted ''surviving spouse'' for ''widow'' in two places.

Subsec. (c). Pub. L. 98–160, § 703(2)(A)–(C), (E), substituted ''the veteran's spouse'' for ''his wife'', ''the veteran's children'' for ''his children'', ''the custody of the veteran'' for ''his custody'', and ''payable to the veteran'' for ''payable to him''.

1972—Subsec. (c). Pub. L. 92–540 inserted provisions relating to that portion of the educational assistance allowance payable on account of dependents under chapter 34 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–540 effective 90 days after Oct. 24, 1972, see section 601(b) of Pub. L. 92–540, set out as a note under section 4101 of this title.

§ 5308. Withholding benefits of persons in territory of the enemy

(a) When any alien entitled to gratuitous benefits under laws administered by the Secretary is located in territory of, or under military control of, an enemy of the United States or of any of its allies, any award of such benefits in favor of such alien shall be terminated forthwith.

(b) Any alien whose award is terminated under subsection (a) shall not thereafter be entitled to any such gratuitous benefits except upon the filing of a new claim, accompanied by evidence satisfactory to the Secretary showing that such alien was not guilty of mutiny, treason, sabotage, or rendering assistance to such enemy. Except as provided in section 5309 of this title, such gratuitous benefits shall not be paid for any period before the date the new claim is filed.

(c) While such alien is located in territory of, or under military control of, an enemy of the United States or of any of its allies, the Secretary, in the Secretary's discretion, may apportion and pay any part of such benefits to the dependents of such alien. No dependent of such alien shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such alien were dead.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1231, § 3108; Pub. L. 99–576, title VII, § 701(74), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5308 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3108 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''5309'' for ''3109''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's''.

1986—Subsec. (c). Pub. L. 99–576 substituted ''the Administrator's'' for ''his'' in first sentence, and ''the dependent'' for ''he'' in second sentence.

§ 5309. Payment of certain withheld benefits

(a) Any person who, but for section 5308 of this title, was entitled to benefits under any of the laws administered by the Secretary, whose award of benefits was terminated under such section, or whose benefits were not paid pursuant to sections 3329 and 3330 of title 31, and who was not guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or its allies, shall be paid the full amount of any benefits not paid because of such section 5308, or withheld (including the amount of any checks covered on such person's account into the Treasury as miscellaneous receipts together with any amount to such person's credit in the special-deposit account) pursuant to sections 3329 and 3330 of title 31. The Secretary shall certify to the Secretary of the Treasury the amounts of payments which, but for this section, would have been made from the special deposit account, and the Secretary of the Treasury, as directed by the Secretary, shall reimburse the appropriations of the Department from such special deposit account, or cover into the Treasury as miscellaneous receipts the amounts so certified.

(b) No payments shall be made for any period before the date claim therefor is filed under this section to any person whose award was terminated, or whose benefits were not paid, before July 1, 1954, because such person was a citizen or subject of Germany or Japan residing in Germany or Japan.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1232, § 3109; Pub. L. 97–258, § 3(k)(4), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 99–576, title VII, § 701(75), Oct. 28, 1986, 100 Stat. 3297; renumbered § 5309 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3109 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in last sentence.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in last sentence.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in first sentence.

Pub. L. 102–40, § 402(d)(1), substituted ''5308'' for ''3108'' in two places in first sentence.

1986—Subsec. (a). Pub. L. 99–576, § 701(75)(A), substituted ''such person's'' for ''his'' in two places.

Subsec. (b). Pub. L. 99–576, § 701(75)(B), substituted ''such person'' for ''he''.

1982—Subsec. (a). Pub. L. 97–258 substituted ''sections 3329 and 3330 of title 31'' for ''sections 123–128 of title 31'' wherever appearing.

§ 5310. Payment of benefits for month of death

(a) If, in accordance with the provisions of section 5110(d) of this title, a surviving spouse is entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which a veteran's death occurs, the amount of such death benefits for that month shall be not less than the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

(b)(1) If the surviving spouse of a veteran who was in receipt of compensation or pension at the time of death is not entitled to death benefits under chapter 11, 13, or 15 of this title for the month in which the veteran's death occurs, that surviving spouse shall be entitled to a benefit for that month in the amount of benefits the veteran would have received under chapter 11 or 15 of this title for that month but for the death of the veteran.

(2) If (notwithstanding section 5112(b)(1) of this title) a check or other payment is issued to, and in the name of, the deceased veteran as a benefit payment under chapter 11 or 15 of this title for the month in which death occurs, that check or other payment (A) shall be treated for all purposes as being payable to the surviving spouse, and (B) if that check or other payment is nego-

tiated or deposited, shall be considered to be the benefit to which the surviving spouse is entitled under paragraph (1). However, if such check or other payment is in an amount less than the amount of the benefit under paragraph (1), the unpaid amount shall be treated in the same manner as an accrued benefit under section 5121 of this title.

(Added Pub. L. 87–825, § 4(a), Oct. 15, 1962, 76 Stat. 950, § 3110; amended Pub. L. 98–160, title VII, § 703(3), Nov. 21, 1983, 97 Stat. 1010; renumbered § 5310 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 104–275, title V, § 506(a), Oct. 9, 1996, 110 Stat. 3343; Pub. L. 105–114, title IV, § 401(f), Nov. 21, 1997, 111 Stat. 2294.)

AMENDMENTS

1997—Subsec. (b)(2). Pub. L. 105–114 substituted ''under paragraph (1)'' for ''under this paragraph'' before period at end of first sentence.

1996—Pub. L. 104–275 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Pub. L. 102–40 renumbered section 3110 of this title as this section and substituted ''5110(d)'' for ''3010(d)''.

1983—Pub. L. 98–160 substituted ''surviving spouse'' for ''widow'', and ''the death of the veteran'' for ''his death''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 506(b) of Pub. L. 104–275 provided that: ''The amendments made by this section [amending this section] shall apply with respect to the death of compensation and pension recipients occurring after December 31, 1996.''

EFFECTIVE DATE

Section effective first day of second calendar month which begins after Oct. 15, 1962, see section 7 of Pub. L. 87–825, set out as an Effective Date of 1962 Amendment note under section 110 of this title.

§ 5311. Prohibition of certain benefit payments

There shall be no payment of dependency and indemnity compensation, death compensation, or death pension which, because of a widow's relationship with another man before enactment of Public Law 87–674, would not have been payable by the Veterans' Administration under the standard for determining remarriage applied by that agency before said enactment.

(Added Pub. L. 91–376, § 8(b), Aug. 12, 1970, 84 Stat. 790, § 3111; renumbered § 5311, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

REFERENCES IN TEXT

Public Law 87–674, referred to in text, is Pub. L. 87–674, Sept. 19, 1962, 76 Stat. 558, which was enacted Sept. 19, 1962, and amended sections 101, 103, and 3010 [now 5110] of this title to provide for the restoration of certain widows and children to the benefit rolls upon annulment of their marriages or remarriages.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3111 of this title as this section.

§ 5312. Annual adjustment of certain benefit rates

(a) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase each maximum annual rate of pension under sections 1521, 1541, and 1542 of this title, the rate of increased pension paid under such sections 1521 and 1541 on account of children, and each rate of monthly allowance paid under section 1805 of this title, as such rates were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

(b)(1) Whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) as a result of a determination made under section 215(i) of such Act (42 U.S.C. 415(i)), the Secretary shall, effective on the date of such increase in benefit amounts, increase the maximum monthly rates of dependency and indemnity compensation for parents payable under subsections (b), (c), and (d), and the monthly rate provided in subsection (g), of section 1315 of this title and the annual income limitations prescribed in subsections (b)(3), (c)(3), and (d)(3) of such section, and the annual benefit amount limitations under sections 5507(c)(2)(D) and 5508 of this title, as such rates and limitations were in effect immediately prior to the date of such increase in benefit amounts payable under title II of the Social Security Act, by the same percentage as the percentage by which such benefit amounts are increased.

(2)(A) Whenever there is an increase under paragraph (1) of this subsection in such rates and annual income limitations, the Secretary shall, effective on the date of such increase in such rates and limitations, adjust (as provided in subparagraph (B) of this paragraph) the rates of dependency and indemnity compensation payable under subsection (b)(1) or (c)(1) of section 1315 of this title to any parent whose annual income is more than $800 but not more than the annual income limitation in effect under subsection (b)(3) or (c)(3) of such section, as appropriate, and adjust the rates of such compensation payable under subsection (d)(1) of such section to any parent whose annual income is more than $1,000 but not more than the annual income limitation in effect under subsection (d)(3) of such section.

(B) The adjustment in rates of dependency and indemnity compensation referred to in subparagraph (A) of this paragraph shall be made by the Secretary in accordance with regulations which the Secretary shall prescribe.

(c)(1) Whenever there is an increase under subsection (a) in benefit rates payable under sections 1521, 1541, 1542, and 1805 of this title and an increase under subsection (b) in benefit rates and annual income limitations under section 1315 of this title, the Secretary shall publish such rates and limitations (including those rates adjusted by the Secretary under subsection (b)(2) of this section), as increased pursuant to such subsections, in the Federal Register at the same time as the material required by section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) is published by reason of a deter-

mination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) Whenever such rates and income limitations are so increased, the Secretary may round such rates and income limitations in such manner as the Secretary considers equitable and appropriate for ease of administration.

(Added Pub. L. 95–588, title III, § 305(a), Nov. 4, 1978, 92 Stat. 2507, § 3112; amended Pub. L. 97–295, § 4(76), Oct. 12, 1982, 96 Stat. 1311; renumbered § 5312, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 104–204, title IV, § 421(c), Sept. 26, 1996, 110 Stat. 2926; Pub. L. 108–454, title V, § 506, Dec. 10, 2004, 118 Stat. 3622.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–454 inserted ''and the annual benefit amount limitations under sections 5507(c)(2)(D) and 5508 of this title,'' after ''(d)(3) of such section,''.

1996—Subsec. (a). Pub. L. 104–204, § 421(c)(1), substituted '', the rate of increased pension'' for ''and the rate of increased pension'' and inserted ''and each rate of monthly allowance paid under section 1805 of this title,'' after ''on account of children,''.

Subsec. (c)(1). Pub. L. 104–204, § 421(c)(2), substituted ''1542, and 1805'' for ''and 1542''.

1991—Pub. L. 102–40 renumbered section 3112 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1521'', ''1541'', and ''1542'' for ''521'', ''541'', and 542'', respectively, wherever appearing.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(1), (2)(A). Pub. L. 102–83, § 5(c)(1), substituted ''1315'' for ''415''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(2)(B). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (c)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1521'', ''1541'', and ''1542'' for ''521'', ''541'', and ''542'', respectively, and ''1315'' for ''415''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (c)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1982—Subsec. (a). Pub. L. 97–295, § 4(76)(A), (B), inserted ''(42 U.S.C. 401 et seq.)'' after first reference to ''title II of the Social Security Act'', and inserted ''(42 U.S.C. 415(i))'' after ''section 215(i) of such Act''.

Subsec. (b)(1). Pub. L. 97–295, § 4(76)(A)–(C), inserted ''(42 U.S.C. 401 et seq.)'' after first reference to ''title II of the Social Security Act'', inserted ''(42 U.S.C. 415(i))'' after ''section 215(i) of such Act'', and substituted ''subsection (g), of section 415 of this title'' for ''subsection (h), of section 415 of such title''.

Subsec. (c)(1). Pub. L. 97–295, § 4(76)(B), (D), inserted ''(42 U.S.C. 415(i)(2)(D))'' after ''section 215(i)(2)(D) of the Social Security Act'', and inserted ''(42 U.S.C. 415(i))'' after ''section 215(i) of such Act''.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–454, title V, § 507, Dec. 10, 2004, 118 Stat. 3622, provided that:

''(a) IN GENERAL.—Except as otherwise provided, this title [enacting sections 5506 to 5510 and 6106 to 6108 of this title and amending this section and sections 5502 and 6101 of this title] and the amendments made by this title shall take effect on the first day of the seventh month beginning after the date of the enactment of this Act [Dec. 10, 2004].

''(b) SPECIAL RULES.—(1) Section 5510 of title 38, United States Code, as added by section 505(a), shall take effect on the date of the enactment of this Act [Dec. 10, 2004].

''(2) Sections 6106 and 6107 of title 38, United States Code, as added by section 503(a), shall apply with respect to any determinations by the Secretary of Veterans Affairs made after the date of the enactment of this Act of misuse of funds by a fiduciary.''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–204 effective Oct. 1, 1997, notwithstanding section 421(d) of Pub. L. 104–204, set out as an Effective Date note under section 1801 of this title, unless legislation other than Pub. L. 104–204 is enacted providing for an earlier effective date, see section 422(c) of Pub. L. 104–204, set out as a note under section 1151 of this title.

Amendment by Pub. L. 104–204 effective Jan. 1, 1997, see section 421(d) of Pub. L. 104–204, set out as an Effective Date note under section 1801 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as an Effective Date of 1978 Amendment note under section 101 of this title.

§ 5313. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony

(a)(1) To the extent provided in subsection (d) of this section, any person who is entitled to compensation or to dependency and indemnity compensation and who is incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days for conviction of a felony shall not be paid such compensation or dependency and indemnity compensation, for the period beginning on the sixty-first day of such incarceration and ending on the day such incarceration ends, in an amount that exceeds—

(A) in the case of a veteran with a service-connected disability rated at 20 percent or more, the rate of compensation payable under section 1114(a) of this title; or

(B) in the case of a veteran with a service-connected disability not rated at 20 percent or more or in the case of a surviving spouse, parent, or child, one-half of the rate of compensation payable under section 1114(a) of this title.

(2) The provisions of paragraph (1) of this subsection shall not apply with respect to any period during which a person is participating in a work-release program or is residing in a halfway house.

(b)(1) All or any part of the compensation not paid to a veteran by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned under the same terms and conditions as are provided under section 5307 of this title.

(2) All or any part of the dependency and indemnity compensation not paid to a surviving spouse or child by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned as follows:

(A) In the case of dependency and indemnity compensation not paid to a surviving spouse, any apportionment shall be to the surviving child or children.

(B) In the case of dependency and indemnity compensation not paid to a surviving child, any apportionment shall be to the surviving spouse or other surviving children, as applicable.

(3) No apportionment may be made under this subsection to or on behalf of any person who is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(c) The Secretary shall not assign to any veteran a rating of total disability based on the individual unemployability of the veteran resulting from a service-connected disability during any period during which the veteran is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(d) The provisions of subsection (a) of this section shall apply (1) with respect to any period of incarceration of a person for conviction of a felony committed after October 7, 1980, and (2) with respect to any period of incarceration on or after October 1, 1980, for conviction of a felony of a person who on October 1, 1980, is incarcerated for conviction of such felony and with respect to whom the action granting an award of compensation or dependency and indemnity compensation is taken on or after such date.

(e) For purposes of this section—

(1) The term ''compensation'' includes disability compensation payable under section 1151 of this title.

(2) The term ''dependency and indemnity compensation'' means death compensation payable under section 1121 or 1141 of this title, death compensation and dependency and indemnity compensation payable under section 1151 of this title, and any benefit payable under chapter 13 of this title.

(Added Pub. L. 96–385, title V, § 504(a), Oct. 7, 1980, 94 Stat. 1534, § 3113; amended Pub. L. 98–160, title VII, § 702(17), Nov. 21, 1983, 97 Stat. 1010; renumbered § 5313 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 105–368, title X, § 1005(b)(16), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105–368 substituted ''October 7, 1980,'' for ''the date of the enactment of this section,''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3113 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 5(c)(1), substituted ''1114(a)'' for ''314(a)'' in subpars. (A) and (B).

Subsec. (b)(1). Pub. L. 102–40, § 402(d)(1), substituted ''5307'' for ''3107''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1151'' for ''351'' in par. (1) and ''1121'', ''1141'', and ''1151'' for ''321'', ''341'', and ''351'', respectively, in par. (2).

1983—Subsec. (a)(2). Pub. L. 98–160 substituted ''paragraph (1) of this subsection'' for ''paragraph (1) of this section''.

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 601(d) of Pub. L. 96–385, set out as an Effective Date of 1980 Amendment note under section 1114 of this title.

LIMITATION ON PAYMENT OF COMPENSATION FOR VETERANS REMAINING INCARCERATED SINCE OCTOBER 7, 1980

Pub. L. 107–103, title V, § 506, Dec. 27, 2001, 115 Stat. 996, provided that:

''(a) LIMITATION.—Section 5313 of title 38, United States Code, other than subsection (d) of that section, shall apply with respect to the payment of compensation to or with respect to any veteran described in subsection (b).

''(b) COVERED VETERANS.—A veteran described in this subsection is a veteran who is entitled to compensation and who—

''(1) on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and

''(2) remains so incarcerated for conviction of that felony as of the date of the enactment of this Act [Dec. 27, 2001].

''(c) EFFECTIVE DATE.—This section shall apply with respect to the payment of compensation for months beginning on or after the end of the 90-day period beginning on the date of the enactment of this Act [Dec. 27, 2001].

''(d) COMPENSATION DEFINED.—For purposes of this section, the term 'compensation' has the meaning given that term in section 5313 of title 38, United States Code.''

§ 5313A. Limitation on payment of clothing allowance to incarcerated veterans

In the case of a veteran who is incarcerated in a Federal, State, or local penal institution for a period in excess of 60 days and who is furnished clothing without charge by the institution, the amount of any annual clothing allowance payable to the veteran under section 1162 of this title shall be reduced by an amount equal to 1/365 of the amount of the allowance otherwise payable under that section for each day on which the veteran was so incarcerated during the 12-month period preceding the date on which payment of the allowance would be due. This section shall be carried out under regulations prescribed by the Secretary.

(Added Pub. L. 104–275, title V, § 502(a), Oct. 9, 1996, 110 Stat. 3341.)

§ 5313B. Prohibition on providing certain benefits with respect to persons who are fugitive felons

(a) A veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran is a fugitive felon. A dependent of a veteran who is otherwise eligible for a benefit specified in subsection (c) may not be paid or otherwise provided such benefit for any period during which such veteran or such dependent is a fugitive felon.

(b) For purposes of this section:

(1) The term ''fugitive felon'' means a person who is a fugitive by reason of—

(A) fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

(B) violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

(2) The term ''felony'' includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

(3) The term ''dependent'' means a spouse, surviving spouse, child, or dependent parent of a veteran.

(c) A benefit specified in this subsection is a benefit under any of the following:

(1) Chapter 11 of this title.
(2) Chapter 13 of this title.
(3) Chapter 15 of this title.
(4) Chapter 17 of this title.
(5) Chapter 19 of this title.
(6) Chapter 30, 31, 32, 34, or 35 of this title.
(7) Chapter 37 of this title.

(d)(1) The Secretary shall furnish to any Federal, State, or local law enforcement official, upon the written request of such official, the most current address maintained by the Secretary of a person who is eligible for a benefit specified in subsection (c) if such official—

(A) provides to the Secretary such information as the Secretary may require to fully identify the person;

(B) identifies the person as being a fugitive felon; and

(C) certifies to the Secretary that apprehending such person is within the official duties of such official.

(2) The Secretary shall enter into memoranda of understanding with Federal law enforcement agencies, and may enter into agreements with State and local law enforcement agencies, for purposes of furnishing information to such agencies under paragraph (1).

(Added Pub. L. 107–103, title V, § 505(a)(1), Dec. 27, 2001, 115 Stat. 995.)

§ 5314. Indebtedness offsets

(a) Subject to subsections (b) and (d) of this section and section 3485(e) of this title, the Secretary shall (unless the Secretary waives recovery under section 5302 of this title) deduct the amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program administered by the Secretary from future payments made to such person under any law administered by the Secretary.

(b) Deductions may not be made under subsection (a) of this section with respect to the indebtedness of a person described in such subsection unless the Secretary—

(1) has made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 5302 of this title;

(2) has made a determination with respect to any such dispute or request or has determined that the time required to make such a determination before making deductions would jeopardize the Secretary's ability to recover the full amount of such indebtedness through deductions from such payments; and

(3) has made reasonable efforts to notify such person about the proposed deductions from such payments.

(c) Notwithstanding any other provision of this title or of any other law, the authority of the Secretary to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for the purpose of determining the creditworthiness of a person who owes such an indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

(d) The Secretary shall prescribe regulations for the administration of this section.

(Added Pub. L. 96–466, title VI, § 605(a)(1), Oct. 17, 1980, 94 Stat. 2209, § 3114; amended Pub. L. 102–16, § 6(b)(3), Mar. 22, 1991, 105 Stat. 51; renumbered § 5314 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3114 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3485(e)'' for ''1685(e)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in two places.

Pub. L. 102–40, § 402(d)(1), substituted ''5302'' for ''3102''.

Pub. L. 102–16 inserted ''and section 1685(e) of this title'' after ''Subject to subsections (b) and (d) of this section''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and ''Secretary's'' for ''Administrator's'' in par. (2).

Pub. L. 102–40, § 402(d)(1), substituted ''5302'' for ''3102'' in par. (1).

Subsecs. (c), (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section 802(f) of Pub. L. 96–466 provided that:

''(1) Except as provided in paragraph (2), the amendments made by title VI [see Tables for classification] shall become effective on October 1, 1980.

''(2) The amendments made by sections 603 [amending sections 1677 and 1798 [now 3698] of this title] and 604 [amending section 1786 [now 3686] of this title] shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on September 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) [now 3452(b)] of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.''

RULES AND REGULATIONS

Section 605(b) of Pub. L. 96–466 provided that: ''The Administrator of Veterans' Affairs [now Secretary of Veterans Affairs] shall, not later than January 1, 1981, prescribe the regulations required to be prescribed under sections 3114 and 3115 [now 5314 and 5315] of title 38, United States Code, as added by subsection (a).''

§ 5315. Interest and administrative cost charges on delinquent payments of certain amounts due the United States

(a) Notwithstanding any other provision of this title or of any other law and subject to sections 3485(e) and 5302 of this title, interest and administrative costs (as described in subsections (b) and (c) of this section) shall be charged, under regulations which the Secretary shall prescribe, on any amount owed to the United States—

(1) for an indebtedness resulting from a person's participation in a benefits program administered by the Secretary other than a loan, loan-guaranty, or loan-insurance program;

(2) for an indebtedness resulting from the provision of care or services under chapter 17 of this title; or

(3) to the extent not precluded by the terms of the loan instruments concerned, for an indebtedness resulting from a person's participation in a program of loans, loan guaranties, or loan insurance administered by the Secretary under this title.

(b)(1) Interest on the amount of any indebtedness described in subsection (a) of this section shall accrue from the day on which the initial notification of the amount due is mailed to the person who owes such amount (using the most current address of such person that is available to the Secretary), but interest under this section shall not be charged (A) for any period before October 17, 1980, or (B) if the amount due is paid within a reasonable period of time. The Secretary shall, in the regulations prescribed pursuant to subsection (a) of this section, prescribe what constitutes a reasonable period of time for payment of an indebtedness after the initial notification of indebtedness has been mailed.

(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Secretary under such regulations.

(c) The administrative costs to be charged under this section with respect to an amount owed to the United States shall be so much of the costs incurred by the United States in collecting such amount as the Secretary determines, under such regulations, to be reasonable and appropriate.

(Added Pub. L. 96–466, title VI, § 605(a)(1), Oct. 17, 1980, 94 Stat. 2210, § 3115; amended Pub. L. 102–16, § 6(b)(4), Mar. 22, 1991, 105 Stat. 51; renumbered § 5315 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(C)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 105–368, title X, § 1005(b)(17), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–368 substituted ''October 17, 1980,'' for ''the date of the enactment of this section,''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3115 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''3485(e)'' for ''1685(e)'' in introductory provisions.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in pars. (1) and (3).

Pub. L. 102–40, § 402(d)(1), substituted ''5302'' for ''3102'' in introductory provisions.

Pub. L. 102–16 substituted ''sections 1685(e) and 3102'' for ''section 3102'' in introductory provisions.

Subsecs. (b), (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

EFFECTIVE DATE

Section effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as a note under section 5314 of this title.

§ 5316. Authority to sue to collect certain debts

(a)(1) The Secretary shall take appropriate steps to authorize attorneys employed by the Department to exercise, subject to paragraphs (2) and (3) of this subsection, the right of the United States to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by a person by virtue of such person's participation in a benefits program administered by the Secretary.

(2) No suit may be filed under this section to recover any indebtedness owed by any person to the United States unless the Secretary has determined, under regulations which the Secretary shall prescribe, that such person has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

(3) The activities of attorneys employed by the Department in bringing suit under this section shall be subject to the direction and supervision of the Attorney General of the United States and to such terms and conditions as the Attorney General may prescribe.

(b) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

(Added Pub. L. 96–466, title VI, § 605(a)(1), Oct. 17, 1980, 94 Stat. 2211, § 3116; renumbered § 5316, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–54, § 14(d)(3), June 13, 1991, 105 Stat. 285; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3116 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–54, § 14(d)(3)(A), amended subsec. (a)(1) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''The'' for ''Within ninety days after the date of the enactment of this section, the''.

Subsec. (a)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (a)(3). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsecs. (b), (c). Pub. L. 102–54, § 14(d)(3)(B), amended section as in effect immediately before the enactment

of Pub. L. 102–40 by redesignating subsec. (c) as (b) and striking out former subsec. (b) which read as follows: ''Not later than ninety days after the date of the enactment of this section, the Administrator and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.''

EFFECTIVE DATE

Section effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as a note under section 5314 of this title.

§ 5317. Use of income information from other agencies: notice and verification

(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(*l*)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

(b) The Secretary may not, by reason of information obtained from the Commissioner of Social Security or the Secretary of the Treasury under section 6103(*l*)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

(1) The amount of the asset or income involved.

(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

(3) The period or periods when the individual actually had such asset or income.

(c) The benefits and services described in this subsection are the following:

(1) Needs-based pension benefits provided under chapter 15 of this title or under any other law administered by the Secretary.

(2) Parents' dependency and indemnity compensation provided under section 1315 of this title.

(3) Health-care services furnished under subsections (a)(2)(G), (a)(3), and (b) of section 1710 of this title.

(4) Compensation paid under chapter 11 of this title at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.

(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Commissioner of Social Security under section 6103(*l*)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 2008.

(Added Pub. L. 101–508, title VIII, § 8051(b)(1), Nov. 5, 1990, 104 Stat. 1388–350, § 3117; renumbered § 5317, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–568, title VI, § 602(a), Oct. 29, 1992, 106 Stat. 4342; Pub. L. 103–66, title XII, § 12004, Aug. 10, 1993, 107 Stat. 414; Pub. L. 104–262, title I, § 101(e)(3), Oct. 9, 1996, 110 Stat. 3181; Pub. L. 105–33, title VIII, § 8014, Aug. 5, 1997, 111 Stat. 664; Pub. L. 106–419, title IV, § 402(d), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 108–183, title VII, § 708(c)(3), Dec. 16, 2003, 117 Stat. 2674.)

REFERENCES IN TEXT

Section 6103(*l*)(7)(D)(viii) of the Internal Revenue Code, referred to in subsecs. (a), (b), and (g), is classified to section 6103(*l*)(7)(D)(viii) of Title 26, Internal Revenue Code.

AMENDMENTS

2003—Subsecs. (a), (b), (g). Pub. L. 108–183 substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services''.

2000—Subsec. (g). Pub. L. 106–419 substituted ''September 30, 2008'' for ''September 30, 2002''.

1997—Subsec. (g). Pub. L. 105–33 substituted ''September 30, 2002'' for ''September 30, 1998''.

1996—Subsec. (c)(3). Pub. L. 104–262 substituted ''subsections (a)(2)(G), (a)(3), and (b) of section 1710'' for ''sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)''.

1993—Subsec. (g). Pub. L. 103–66 substituted ''1998'' for ''1997''.

1992—Subsec. (g). Pub. L. 102–568 substituted ''1997'' for ''1992''.

1991—Pub. L. 102–40 renumbered section 3117 of this title as this section.

Subsec. (c)(2). Pub. L. 102–83 substituted ''1315'' for ''415''.

Subsec. (c)(3). Pub. L. 102–83 substituted ''1710(a)(1)(I)'', ''1710(a)(2)'', ''1710(b)'', and ''1712(a)(2)(B)'' for ''610(a)(1)(I)'', ''610(a)(2)'', ''610(b)'', and ''612(a)(2)(B)'', respectively.

NOTIFICATION PRIOR TO USE OF INCOME INFORMATION FROM OTHER FEDERAL AGENCIES

Section 8051(c) of Pub. L. 101–508 provided that:

''(1) The Secretary of Veterans Affairs shall notify individuals who (as of the date of the enactment of this Act [Nov. 5, 1990]) are applicants for or recipients of the benefits described in subsection (c) (other than paragraph (3)) of section 3117 [now 5317] of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(*l*)(7)(D) of the Internal Revenue Code of 1986 [26 U.S.C. 6103(*l*)(7)(D)] (as added by subsection (a)).

''(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

''(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(*l*)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.''

STUDY BY COMPTROLLER GENERAL ON EFFECTIVENESS OF AMENDMENTS BY PUB. L. 101–508

Section 8051(d) of Pub. L. 101–508 provided that: ''The Comptroller General of the United States shall conduct a study of the effectiveness of the amendments made by this section [enacting this section] and shall submit a report on such study to the Committees on Veterans' Affairs and Ways and Means of the House of Representatives and the Committees on Veterans' Affairs and Finance of the Senate not later than January 1, 1992.''

§ 5318. Review of Social Security Administration death information

(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with information in the records of the Social Security Administration relating to persons who have died for the purposes of—

(1) determining whether any such persons to whom compensation and pension is being paid are deceased;

(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

(b) The Social Security Administration death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Commissioner of Social Security, including death information available to the Commissioner from a State, pursuant to a memorandum of understanding entered into by the Secretary and the Commissioner. Any such memorandum of understanding shall include safeguards to assure that information made available under it is not used for unauthorized purposes or improperly disclosed.

(Added Pub. L. 101–508, title VIII, § 8053(b)(1), Nov. 5, 1990, 104 Stat. 1388–352, § 3118; renumbered § 5318, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 108–183, title VII, § 708(c)(4)(A), (B)(i), Dec. 16, 2003, 117 Stat. 2674.)

AMENDMENTS

2003—Pub. L. 108–183, § 708(c)(4)(B)(i), substituted ''Social Security Administration'' for ''Department of Health and Human Services'' in section catchline.

Subsec. (a). Pub. L. 108–183, § 708(c)(4)(A)(i), substituted ''Social Security Administration'' for ''Department of Health and Human Services'' in introductory provisions.

Subsec. (b). Pub. L. 108–183, § 708(c)(4)(A)(ii), substituted ''Social Security Administration'' for ''Department of Health and Human Services'', ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' after ''through the'', ''Commissioner'' for ''Secretary of Health and Human Services'' after ''available to the'', and ''the Secretary and the Commissioner'' for ''such Secretaries''.

1991—Pub. L. 102–40 renumbered section 3118 of this title as this section.

§ 5319. Limitations on access to financial records

(a) The Secretary may make a request referred to in section 1113(p) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(p)) only if the Secretary determines that the requested information—

(1) is necessary in order for the Secretary to administer the provisions of law referred to in that section; and

(2) cannot be secured by a reasonable search of records and information of the Department.

(b) The Secretary shall include a certification of the determinations referred to in subsection (a) in each request presented to a financial institution.

(c) Information disclosed pursuant to a request referred to in subsection (a) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary if, except for the exemption in subsection (a), the disclosure of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978.

(Added Pub. L. 102–568, title VI, § 603(b)(1), Oct. 29, 1992, 106 Stat. 4342.)

REFERENCES IN TEXT

The Right to Financial Privacy Act of 1978, referred to in subsec. (c), is title XI of Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3697, as amended, which is classified generally to chapter 35 (§ 3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

CHAPTER 55—MINORS, INCOMPETENTS, AND OTHER WARDS

Sec.
5501. Commitment actions.
5502. Payments to and supervision of fiduciaries.
5503. Hospitalized veterans and estates of incompetent institutionalized veterans.
5504. Administration of trust funds.
[5505. Repealed.]
5506. Definition of ''fiduciary''.
5507. Inquiry, investigations, and qualification of fiduciaries.
5508. Periodic onsite reviews of institutional fiduciaries.
5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting.
5510. Annual report.

AMENDMENTS

2004—Pub. L. 108–454, title V, §§ 501(a)(2), 502(b), 504(a)(2), 505(b), Dec. 10, 2004, 118 Stat. 3617, 3619, 3621, 3622, added items 5506 to 5510.

1994—Pub. L. 103–446, title XII, § 1201(g)(4)(B), Nov. 2, 1994, 108 Stat. 4687, struck out item 5505 ''Limitation on compensation payments for certain incompetent veterans''.

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3201 to 3205 as 5501 to 5505, respectively.

1990—Pub. L. 101–508, title VIII, § 8001(a)(2), Nov. 5, 1990, 104 Stat. 1388–342, added item 3205.

1984—Pub. L. 98–223, title II, § 207(b)(2), Mar. 2, 1984, 98 Stat. 43, substituted ''fiduciaries'' for ''guardians'' in item 3202.

§ 5501. Commitment actions

The Secretary may incur necessary court costs and other expenses incident to proceedings for the commitment of mentally incompetent veterans to a Department hospital or domiciliary when necessary for treatment or domiciliary purposes.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1232, § 3201; renumbered § 5501, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3201 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

§ 5502. Payments to and supervision of fiduciaries

(a)(1) Where it appears to the Secretary that the interest of the beneficiary would be served thereby, payment of benefits under any law administered by the Secretary may be made directly to the beneficiary or to a relative or some other fiduciary for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary. Where, in the opinion of the Secretary, any fiduciary receiving funds on behalf of a Department beneficiary is acting in such a number of cases as to make it impracticable to conserve properly the estates or to supervise the persons of the beneficiaries, the Secretary may refuse to make future payments in such cases as the Secretary may deem proper.

(2) In a case in which the Secretary determines that a commission is necessary in order to obtain the services of a fiduciary in the best interests of a beneficiary, the Secretary may authorize a fiduciary appointed by the Secretary to obtain from the beneficiary's estate a reasonable commission for fiduciary services rendered, but the commission for any year may not exceed 4 percent of the monetary benefits under laws administered by the Secretary paid on behalf of the beneficiary to the fiduciary during such year. A commission may not be authorized for a fiduciary who receives any other form of remuneration or payment in connection with rendering fiduciary services for benefits under this title on behalf of the beneficiary.

(b) Whenever it appears that any fiduciary, in the opinion of the Secretary, is not properly executing or has not properly executed the duties of the trust of such fiduciary or has collected or paid, or is attempting to collect or pay, fees, commissions, or allowances that are inequitable or in excess of those allowed by law for the duties performed or expenses incurred, or has failed to make such payments as may be necessary for the benefit of the ward or the dependents of the ward, then the Secretary may appear, by the Secretary's authorized attorney, in the court which has appointed such fiduciary, or in any court having original, concurrent, or appellate jurisdiction over said cause, and make proper presentation of such matters. The Secretary, in the Secretary's discretion, may suspend payments to any such fiduciary who shall neglect or refuse, after reasonable notice, to render an account to the Secretary from time to time showing the application of such payments for the benefit of such incompetent or minor beneficiary, or who shall neglect or refuse to administer the estate according to law. The Secretary may require the fiduciary, as part of such account, to disclose any additional financial information concerning the beneficiary (except for information that is not available to the fiduciary). The Secretary may appear or intervene by the Secretary's duly authorized attorney in any court as an interested party in any litigation instituted by the Secretary or otherwise, directly affecting money paid to such fiduciary under this section.

(c) Authority is hereby granted for the payment of any court or other expenses incident to any investigation or court proceeding for the appointment of any fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Secretary or the removal of such fiduciary and appointment of another, and of expenses in connection with the administration of such benefits by such fiduciaries, or in connection with any other court proceeding hereby authorized, when such payment is authorized by the Secretary.

(d) All or any part of any benefits the payment of which is suspended or withheld under this section may, in the discretion of the Secretary, be paid temporarily to the person having custody and control of the incompetent or minor beneficiary, to be used solely for the benefit of such beneficiary, or, in the case of an incompetent veteran, may be apportioned to the dependent or dependents, if any, of such veteran. Any part not so paid and any funds of a mentally incompetent or insane veteran not paid to the chief officer of the institution in which such veteran is a patient nor apportioned to the veteran's dependent or dependents may be ordered held in the Treasury to the credit of such beneficiary. All funds so held shall be disbursed under the order and in the discretion of the Secretary for the benefit of such beneficiary or the beneficiary's dependents. Any balance remaining in such fund to the credit of any beneficiary may be paid to the beneficiary if the beneficiary recovers and is found competent, or if a minor, attains majority, or otherwise to the beneficiary's fiduciary, or, in the event of the beneficiary's death, to the beneficiary's personal representative, except as otherwise provided by law; however, payment will not be made to the beneficiary's personal representative if, under the law of the beneficiary's last legal residence, the beneficiary's estate would escheat to the State. In the event of the death of a mentally incompetent or insane veteran, all gratuitous benefits under laws administered by the Secretary deposited before or after August 7, 1959, in the personal funds of patients trust fund on account of such veteran shall not be paid to the personal representative of such veteran, but shall be paid to the following persons living at the time of settlement, and in the order named: The surviving spouse, the children (without regard to age or marital

status) in equal parts, and the dependent parents of such veteran, in equal parts. If any balance remains, such balance shall be deposited to the credit of the applicable current appropriation; except that there may be paid only so much of such balance as may be necessary to reimburse a person (other than a political subdivision of the United States) who bore the expenses of last sickness or burial of the veteran for such expenses. No payment shall be made under the two preceding sentences of this subsection unless claim therefor is filed with the Secretary within five years after the death of the veteran, except that, if any person so entitled under said two sentences is under legal disability at the time of death of the veteran, such five-year period of limitation shall run from the termination or removal of the legal disability.

(e) Any funds in the hands of a fiduciary appointed by a State court or the Secretary derived from benefits payable under laws administered by the Secretary, which under the law of the State wherein the beneficiary had last legal residence would escheat to the State, shall escheat to the United States and shall be returned by such fiduciary, or by the personal representative of the deceased beneficiary, less legal expenses of any administration necessary to determine that an escheat is in order, to the Department, and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1232, § 3202; Pub. L. 86–146, § 1(a), Aug. 7, 1959, 73 Stat. 297; Pub. L. 92–328, title I, § 105(a), June 30, 1972, 86 Stat. 395; Pub. L. 93–295, title III, § 301, May 31, 1974, 88 Stat. 183; Pub. L. 97–295, § 4(77), Oct. 12, 1982, 96 Stat. 1311; Pub. L. 98–223, title II, § 207(a), (b)(1), Mar. 2, 1984, 98 Stat. 43; Pub. L. 99–576, title V, § 505, title VII, § 701(76), Oct. 28, 1986, 100 Stat. 3287, 3297; renumbered § 5502 and amended Pub. L. 102–40, title III, § 305(a), title IV, § 402(b)(1), May 7, 1991, 105 Stat. 210, 238; Pub. L. 102–83, § 4(a)(1), (2)(A)(ix), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 108–454, title V, § 501(b), Dec. 10, 2004, 118 Stat. 3617.)

AMENDMENTS

2004—Subsec. (a)(1). Pub. L. 108–454, § 501(b)(1)(A), substituted ''other fiduciary'' for ''other person''.

Subsec. (a)(2). Pub. L. 108—454, § 501(b)(1)(B), inserted ''for benefits under this title'' after ''in connection with rendering fiduciary services'' in second sentence.

Subsec. (b). Pub. L. 108–454, § 501(b)(2), substituted ''appears that any fiduciary'' for ''appears that any guardian, curator, conservator, or other person'', ''trust of such fiduciary'' for ''trust of such guardian, curator, conservator, or other person'', and ''payments to any such fiduciary'' for ''payments to any such guardian, curator, conservator, or other person''.

Subsec. (d). Pub. L. 108–454, § 501(b)(3), substituted ''fiduciary'' for ''guardian, curator, or conservator''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3202 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in four places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (a)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(2)(A)(ix), substituted ''Secretary'' for ''Veterans' Administration'' before ''to obtain''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(2)(A)(ix), substituted ''Secretary'' for ''Veterans' Administration'' before ''within''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–40, § 305(a), substituted ''a patient'' for ''an inmate'' before ''such veteran is''.

Subsec. (e). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' after ''to the''.

Pub. L. 102–83, § 4(a)(2)(A)(ix), substituted ''Secretary'' for ''Veterans' Administration'' after ''or the''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Subsec. (a)(1). Pub. L. 99–576, § 701(76)(A), substituted ''the Administrator'' for ''he'' before ''may deem proper''.

Subsec. (b). Pub. L. 99–576, §§ 505, 701(76)(B), substituted ''the trust of such guardian, curator, conservator, or other person'' for ''his trust'' in first sentence, substituted ''the Administrator's'' for ''his duly'' in first sentence, substituted ''the Administrator's'' for ''his'' in second and third sentences, substituted ''the Administrator'' for ''himself'' in third sentence, and inserted after second sentence ''The Administrator may require the fiduciary, as part of such account, to disclose any additional financial information concerning the beneficiary (except for information that is not available to the fiduciary).''

Subsec. (d). Pub. L. 99–576, § 701(76)(C), substituted ''the veteran's'' for ''his'' in second sentence, substituted ''the beneficiary's'' for ''his'' in third sentence, and in fourth sentence substituted ''the beneficiary'' for ''him'', ''the beneficiary'' for ''he'', and ''the beneficiary's'' for ''his'' in six places.

Subsec. (e). Pub. L. 99–576, § 701(76)(D), struck out ''his'' before ''last legal residence''.

1984—Pub. L. 98–223, § 207(b)(1), substituted ''fiduciaries'' for ''guardians'' in section catchline.

Subsec. (a). Pub. L. 98–223, § 207(a), designated existing provisions as par. (1) and added par. (2).

1982—Subsec. (d). Pub. L. 97–295 substituted ''August 7, 1959,'' for ''the date of enactment of this sentence''.

1974—Subsec. (a). Pub. L. 93–295, § 301(a), among other changes, substituted provisions authorizing the Administrator, where it appears to him that the interests of the beneficiary would be served thereby, to pay benefits directly to the beneficiary or to a relative or some other person for the use and benefit of the beneficiary, regardless of any legal disability on the part of the beneficiary, for provisions which authorized payments to the guardians, curators, conservators, or persons otherwise legally vested with the care or estate of the minor or of a person mentally incompetent or under other legal disability, and eliminated provisions which permitted payment of benefits direct to the person entitled thereto prior to receipt of notice that such person is under a legal disability adjudged by a court, and which permitted the Administrator to determine the person legally vested with the care of the claimant or his estate where no guardian, curator or conservator has been appointed.

Subsec. (c). Pub. L. 93–295, § 301(b), substituted ''fiduciary or other person for the purpose of payment of benefits payable under laws administered by the Veterans' Administration'' for ''guardian, curator, conservator, or other person legally vested with the care of the claimant or his estate'', and ''such benefits'' for ''such estates''.

Subsec. (e). Pub. L. 93–295, § 301(c), substituted ''hands of a fiduciary appointed by a State court or the Veterans' Administration derived from'' for ''hands of a guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate, derived from'', and ''such fiduciary'' for ''such guardian, curator, conservator, or person legally vested with the care of the beneficiary or his estate''.

Subsecs. (f), (g). Pub. L. 93–295, § 301(d), repealed subsec. (f) which permitted the Administrator, in the case of any incompetent veteran having no guardian, to pay compensation, pension or retirement pay to the wife of such veteran for the use of the veteran and his dependents, and subsec. (g) which permitted payment of death benefits to a widow for herself and child or children, if any, notwithstanding that she may be a minor.

1972—Subsec. (d). Pub. L. 92–328 inserted provisions relating to filing for death benefit payments.

1959—Subsec. (d). Pub. L. 86–146 provided for payment, upon death of an incompetent veteran, of gratuitous benefits deposited in the personal funds of patients trust fund to surviving spouse, children or parents, for deposit of balance to credit of applicable current appropriation and for reimbursement of expenses of last sickness and burial.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–454 effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as a note under section 5312 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective first day of second calendar month following May 31, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective first day of second calendar month which begins after June 30, 1972, see section 301(a) of Pub. L. 92–328, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 3 of Pub. L. 86–146 provided that: ''The amendments made by this Act [amending this section and section 3203 [now 5503] of this title] shall take effect as of the first day of the first calendar month which begins more than ninety days after the date of enactment of this Act [Aug. 7, 1959].''

§ 5503. Hospitalized veterans and estates of incompetent institutionalized veterans

(a)(1)(A) Where any veteran having neither spouse nor child is being furnished domiciliary care by the Department, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care.

(B) Except as provided in subparagraph (D) of this paragraph, where any veteran having neither spouse nor child is being furnished nursing home care by the Department, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the end of the third full calendar month following the month of admission for such care. Any amount in excess of $90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.

(C) No pension in excess of $90 per month shall be paid to or for a veteran having neither spouse nor child for any period after the month in which such veteran is readmitted for care described in subparagraph (A) or (B) of this paragraph and furnished by the Department if such veteran is readmitted within six months of a period of care in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph.

(D) In the case of a veteran being furnished nursing home care by the Department and with respect to whom subparagraph (B) of this paragraph requires a reduction in pension, such reduction shall not be made for a period of up to three additional calendar months after the last day of the third month referred to in such subparagraph if the Secretary determines that the primary purpose for the furnishing of such care during such additional period is for the Department to provide such veteran with a prescribed program of rehabilitation services, under chapter 17 of this title, designed to restore such veteran's ability to function within such veteran's family and community. If the Secretary determines that it is necessary, after such period, for the veteran to continue such program of rehabilitation services in order to achieve the purposes of such program and that the primary purpose of furnishing nursing home care to the veteran continues to be the provision of such program to the veteran, the reduction in pension required by subparagraph (B) of this paragraph shall not be made for the number of calendar months that the Secretary determines is necessary for the veteran to achieve the purposes of such program.

(2) The provisions of paragraph (1) shall also apply to a veteran being furnished such care who has a spouse but whose pension is payable under section 1521(b) of this title. In such a case, the Secretary may apportion and pay to the spouse, upon an affirmative showing of hardship, all or any part of the amounts in excess of the amount payable to the veteran while being furnished such care which would be payable to the veteran if pension were payable under section 1521(c) of this title.

(b) Notwithstanding any other provision of this section or any other provision of law, no reduction shall be made in the pension of any veteran for any part of the period during which the veteran is furnished hospital treatment, or institutional or domiciliary care, for Hansen's disease, by the United States or any political subdivision thereof.

(c) Where any veteran in receipt of an aid and attendance allowance described in section 1114(r) of this title is hospitalized at Government expense, such allowance shall be discontinued from the first day of the second calendar month which begins after the date of the veteran's admission for such hospitalization for so long as

such hospitalization continues. Any discontinuance required by administrative regulation, during hospitalization of a veteran by the Department, of increased pension based on need of regular aid and attendance or additional compensation based on need of regular aid and attendance as described in subsection (*l*) or (m) of section 1114 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veterans' admission for hospitalization. In case a veteran affected by this subsection leaves a hospital against medical advice and is thereafter admitted to hospitalization within six months from the date of such departure, such allowance, increased pension, or additional compensation, as the case may be, shall be discontinued from the date of such readmission for so long as such hospitalization continues.

(d)(1) For the purposes of this subsection—

(A) the term ''Medicaid plan'' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

(B) the term ''nursing facility'' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r), other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 1741(a) of this title.

(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for the veteran for any period after the month of admission to such nursing facility.

(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.

(6) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(7) This subsection expires on September 30, 2011.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1234, § 3203; Pub. L. 86–146, §§ 1(b), 2, Aug. 7, 1959, 73 Stat. 298; Pub. L. 86–211, § 6, Aug. 29, 1959, 73 Stat. 435; Pub. L. 87–544, § 1, July 25, 1962, 76 Stat. 208; Pub. L. 87–556, § 1, July 27, 1962, 76 Stat. 245; Pub. L. 87–645, § 2(b), Sept. 7, 1962, 76 Stat. 441; Pub. L. 88–450, § 5(a), Aug. 19, 1964, 78 Stat. 504; Pub. L. 89–362, §§ 1, 2, Mar. 7, 1966, 80 Stat. 30; Pub. L. 91–24, § 10, June 11, 1969, 83 Stat. 34; Pub. L. 92–328, title I, § 104, June 30, 1972, 86 Stat. 394; Pub. L. 93–177, § 5, Dec. 6, 1973, 87 Stat. 696; Pub. L. 95–588, title III, § 307, Nov. 4, 1978, 92 Stat. 2510; Pub. L. 96–385, title V, § 503(b), Oct. 7, 1980, 94 Stat. 1534; Pub. L. 97–66, title VI, § 602, Oct. 17, 1981, 95 Stat. 1034; Pub. L. 98–160, title VII, § 703(4), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 98–543, title IV, § 402(a), Oct. 24, 1984, 98 Stat. 2749; Pub. L. 99–576, title VII, § 701(77), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 101–237, title I, § 111(a), Dec. 18, 1989, 103 Stat. 2064; Pub. L. 101–508, title VIII, § 8003(a), Nov. 5, 1990, 104 Stat. 1388–342; renumbered § 5503 and amended Pub. L. 102–40, title III, § 304(a), title IV, § 402(b)(1), May 7, 1991, 105 Stat. 209, 238; Pub. L. 102–83, §§ 4(a)(2)(A)(x), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 102–86, title I, § 101(a), Aug. 14, 1991, 105 Stat. 414; Pub. L. 102–568, title VI, § 601(a)–(c), Oct. 29, 1992, 106 Stat. 4341; Pub. L. 103–66, title XII, § 12005, Aug. 10, 1993, 107 Stat. 414; Pub. L. 105–33, title VIII, § 8015, Aug. 5, 1997, 111 Stat. 664; Pub. L. 105–368, title IX, § 904(a), Nov. 11, 1998, 112 Stat. 3361; Pub. L. 106–419, title III, § 304, title IV, § 402(e), Nov. 1, 2000, 114 Stat. 1853, 1863; Pub. L. 107–103, title II, § 204(a), title V, § 504, Dec. 27, 2001, 115 Stat. 990, 995.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2001—Subsecs. (b), (c). Pub. L. 107–103, § 204(a), redesignated subsecs. (d) and (e) as (b) and (c), respectively, and struck out former subsecs. (b) and (c), which read as follows:

''(b)(1)(A) In any case in which a veteran having neither spouse nor child is being furnished hospital treatment or institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, is rated by the Secretary in accordance with regulations as being incompetent, and the veteran's estate (excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home), from any source equals or exceeds the amount equal to five times the section 1114(j) rate, further payments of pension, compensation, or emergency officers' retirement pay shall not be made until the estate is reduced to one-half that amount.

''(B) The amount which would be payable but for this paragraph shall be paid to the veteran in a lump sum; however, no payment of a lump sum herein authorized shall be made to the veteran until after the expiration of six months following a finding of competency and in the event of the veterans' death before payment of such lump sum no part thereof shall be payable.

''(C) The Secretary may waive the discontinuance under this paragraph of payments to a veteran with respect to not more than 60 days of care of the veteran during any calendar year if the Secretary determines that the waiver is necessary in order to avoid a hardship for the veteran. Any such waiver shall be made pursuant to regulations which the Secretary shall prescribe.

''(D) For purposes of this paragraph, the term 'section 1114(j) rate' means the monthly rate of compensation in effect under section 1114(j) of this title for a veteran with a service-connected disability rated as total.

''(2) Where any benefit is discontinued by reason of paragraph (1) of this subsection the Secretary may nevertheless apportion and pay to the dependent parents of the veteran on the basis of need all or any part of the benefit which would otherwise be payable to or for such incompetent veteran. Paragraph (1) of this subsection shall not prevent the payment, out of any remaining amounts discontinued under that paragraph, on account of any veteran of so much of the veteran's pension, compensation, or retirement pay as equals the amount charged to the veteran for the veteran's current care and maintenance in the institution in which treatment or care is furnished the veteran, but not more than the amount determined by the Secretary to be the proper charge as fixed by any applicable statute or valid administrative regulation.

''(3) All or any part of the pension, compensation, or retirement pay payable on account of any incompetent veteran who is being furnished hospital treatment, institutional or domiciliary care may, in the discretion of the Secretary, be paid to the chief officer of the institution wherein the veteran is being furnished such treatment or care, to be properly accounted for by such chief officer and to be used for the benefit of the veteran.

''(c) Any veteran subject to the provisions of subsection (b) shall be deemed to be single and without dependents in the absence of satisfactory evidence to the contrary. In no event shall increased compensation, pension, or retirement pay of such veteran be granted for any period more than one year before receipt of satisfactory evidence showing such veteran has a spouse, child, or dependent parent.''

Subsec. (d). Pub. L. 107–103, §§204(a)(2), 504, redesignated subsec. (f) as (d) and substituted ''September 30, 2011'' for ''September 30, 2008'' in par. (7). Former subsec. (d) redesignated (b).

Subsecs. (e), (f). Pub. L. 107–103, §204(a)(2), redesignated subsecs. (e) and (f) as (c) and (d), respectively.

2000—Subsec. (b)(1)(A). Pub. L. 106–419, §304(1), substituted ''the amount equal to five times the section 1114(j) rate'' for ''$1,500'' and ''one-half that amount'' for ''$500''.

Subsec. (b)(1)(D). Pub. L. 106–419, §304(2), added subpar. (D).

Subsec. (f)(7). Pub. L. 106–419, §402(e), substituted ''September 30, 2008'' for ''September 30, 2002''.

1998—Subsec. (a)(1)(B). Pub. L. 105–368 substituted ''Any'' for ''Effective through September 30, 1997, any'' in second sentence.

1997—Subsec. (f)(7). Pub. L. 105–33 substituted ''September 30, 2002'' for ''September 30, 1998''.

1993—Subsec. (f)(7). Pub. L. 103–66 substituted ''1998'' for ''1997''.

1992—Subsec. (a)(1)(B). Pub. L. 102–568, §601(c), inserted at end ''Effective through September 30, 1997, any amount in excess of $90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.''

Subsec. (f)(5), (6). Pub. L. 102–568, §601(a), added par. (5) and redesignated former par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (f)(7). Pub. L. 102–568, §601(b), substituted ''1997'' for ''1992''.

Pub. L. 102–568, §601(a)(1), redesignated par. (6) as (7).

1991—Pub. L. 102–40, §402(b)(1), renumbered section 3203 of this title as this section.

Subsec. (a)(1)(A), (B). Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (a)(1)(C). Pub. L. 102–86 substituted ''$90'' for ''$60''.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (a)(1)(D). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (a)(2). Pub. L. 102–83, §5(c)(1), substituted ''1521(b)'' and ''1521(c)'' for ''521(b)'' and ''521(c)'', respectively.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(1)(A). Pub. L. 102–83, §4(a)(2)(A)(x), substituted ''Secretary'' for ''Veterans' Administration''.

Subsec. (b)(1)(C), (2), (3). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (e). Pub. L. 102–83, §5(c)(1), substituted ''1114(r)'' and ''1114'' for ''314(r)'' and ''314'', respectively.

Pub. L. 102–83, §4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (f)(1)(B). Pub. L. 102–83, §5(c)(1), substituted ''1741(a)'' for ''641(a)''.

Pub. L. 102–40, §304(a), inserted before period at end '', other than a facility that is a State home with respect to which the Secretary makes per diem payments for nursing home care pursuant to section 641(a) of this title''.

1990—Subsec. (f). Pub. L. 101–508 added subsec. (f).

1989—Subsec. (a)(1). Pub. L. 101–237, §111(a), substituted ''$90'' for ''$60'' in subpars. (A) and (B), substituted ''third'' for ''second'' in subpar. (A), and struck out ''hospital or'' before ''nursing home care'' wherever appearing in subpars. (B) and (D).

1986—Subsec. (e). Pub. L. 99–576 substituted ''the veteran's'' for ''his'' before ''admission''.

1984—Subsec. (b)(1). Pub. L. 98–543 designated first and second sentences as subpars. (A) and (B), respectively, and in subpar. (A), as so designated, substituted ''or'' for the comma after ''treatment'', struck out ''by reason of mental illness'' after ''as being incompetent'', inserted ''(excluding the value of the veteran's home unless there is no reasonable likelihood that the veteran will again reside in such home),'' after ''the veteran's estate'', and added subpar. (C).

1983—Subsec. (a)(2). Pub. L. 98–160, §703(4)(A), (B), substituted ''spouse'' for ''wife'', and ''the veteran'' for ''him''.

Subsec. (b)(1). Pub. L. 98–160, §703(4)(A), (C), substituted ''spouse'' for ''wife'' and ''the veteran's'' for ''his''.

Subsec. (b)(2). Pub. L. 98–160, §703(4)(B), (C), substituted ''the veteran'' for ''him'', and ''the veteran's'' for ''his''.

Subsec. (c). Pub. L. 98–160, §703(4)(A), substituted ''spouse'' for ''wife''.

Subsec. (d). Pub. L. 98–160, §703(4)(D), substituted ''the veteran'' for ''he''.

1981—Subsec. (a)(1)(B). Pub. L. 97–66, §602(1), substituted ''Except as provided in subparagraph (D) of this paragraph, where'' for ''Where''.

Subsec. (a)(1)(D). Pub. L. 97–66, §602(2), added subpar. (D).

1980—Subsec. (a)(1)(C). Pub. L. 96–385 substituted ''in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph'' for ''of not less than two full calendar months''.

1978—Subsec. (a)(1). Pub. L. 95–588 revised and restructured par. (1) and, as so restructured, raised the maximum pension to be paid to a veteran being furnished institutional care who has neither wife nor child from $50 per month to $60 per month.

1973—Subsec. (a)(1). Pub. L. 93–177 substituted ''$50'' for ''$30''.

1972—Subsec. (a). Pub. L. 92–328, §104(a), (b), redesignated subsec. (d) as (a). Former subsec. (a), which related to payment of compensation or retirement pay to veterans being furnished hospital treatment, institutional or domiciliary care by the Veterans' Administration, was struck out.

Subsec. (b)(1). Pub. L. 92–328, §104(c), redesignated par. (2) as (1) and inserted provisions relating to the rating by the Veterans' Administration of a veteran as incompetent by reason of mental illness and provisions

relating to the payment of a lump sum to the veteran until after the expiration of six months following the finding of competency of the veteran. Former par. (1), which related to the payment of compensation or retirement pay pursuant to the provisions of subsec. (a) of this section to veterans rated by the Veterans' Administration as incompetent, was struck out.

Subsec. (b)(2). Pub. L. 92–328, § 104(c), (d), redesignated par. (3) as (2) and substituted ''(1)'' for ''(2)'' wherever appearing. Former par. (2) redesignated (1).

Subsec. (b)(3), (4). Pub. L. 92–328, § 104(d), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (c). Pub. L. 92–328, § 104(e), struck out ''(a) or'' after ''subsection''.

Subsec. (d). Pub. L. 92–328, § 104(b), (f), redesignated subsec. (e) as (d) and struck out '', compensation, or retirement pay'' after ''pension''. Former subsec. (d) redesignated (a).

Subsecs. (e), (f). Pub. L. 92–328, § 104(f), (g), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

1969—Subsec. (d)(2). Pub. L. 91–24 substituted ''the amount payable to the veteran while being furnished such care which would be payable to him if pension were payable under section 521(c) of this title'' for ''$30 per month which would be payable to the veteran while being furnished such care if pension were payable to him under section 521(c) of this title''.

1966—Subsec. (a)(1). Pub. L. 89–362, § 1, limited the application of the rule requiring immediate reduction of withheld benefits following discharge against medical advice or as a result of disciplinary action to situations where the readmission occurs within 6 months following prior termination of the hospitalization or institutional care.

Subsec. (f). Pub. L. 89–362, § 2, limited the application of the rule requiring discontinuance of aid and attendance allowance upon readmission following departure from a hospital against medical advice to situations where the readmission occurs within 6 months following prior termination of the hospitalization.

1964—Subsec. (f). Pub. L. 88–450 directed that any discontinuance required by administrative regulation, during hospitalization of a veteran by the Veterans' Administration, of increased pension based on need of regular aid and attendance as described in subsection (*l*) or (m) of section 314 of this title, shall not be effective earlier than the first day of the second calendar month which begins after the date of the veteran's admission for hospitalization, and authorized discontinuance of the increased pension or additional compensation of a veteran upon readmission if he left a hospital against medical advice.

1962—Subsec. (a)(2)(A). Pub. L. 87–544 removed brothers, sisters, and nondependent parents from the permitted class of beneficiaries.

Subsec. (d)(1). Pub. L. 87–556, § 1(1), limited par. (1) to veterans having neither wife nor child.

Subsec. (d)(2). Pub. L. 87–556, § 1(2), substituted provisions making par. (1) applicable to a veteran having a wife but whose pension is payable under section 521(b) of this title, and in such case, authorized the Administrator to pay to the wife, upon an affirmative showing of hardship, all or any part of the amounts in excess of $30 per month payable to the veteran under section 521(c) of this title, for provisions which permitted the Administrator, to pay to the wife or children of a veteran, the balance of the pension he would receive but for par. (1) of this section.

Subsec. (f). Pub. L. 87–645 added subsec. (f).

1959—Subsec. (a)(1). Pub. L. 86–211, § 6(1), struck out references to pensions.

Subsec. (a)(2)(B). Pub. L. 86–146, § 1(b), inserted ''under the last two sentences of section 3202(d) of this title or'' before ''under this paragraph'' in two places.

Subsec. (b). Pub. L. 86–146, § 2, inserted ''to the veteran'' and ''and in the event of the veterans' death before payment of such lump sum no part thereof shall be payable'' in par. (1); substituted ''in which such an incompetent veteran having neither wife nor child is being furnished hospital treatment, institutional or domiciliary care without charge or otherwise by the United States, or any political subdivision thereof, and his estate from any source equals or exceeds $1,500, further payments of pension, compensation, or emergency officers' retirement pay'' and ''paragraph'' for ''where the estate of such incompetent veteran derived from any source equals or exceeds $1,500, further payments of such benefits (except retired pay, but including emergency officers' retirement pay'' and ''subsection'' and inserted ''before payment of such lump sum'' in par. (2); added par. (3); and redesignated former par. (3) as (4).

Subsec. (b)(1). Pub. L. 86–211, § 6(1), struck out reference to pension of a veteran.

Subsecs. (d), (e). Pub. L. 86–211, § 6(2), (3), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title IX, § 904(b), Nov. 11, 1998, 112 Stat. 3361, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as of October 1, 1997.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 601(d) of Pub. L. 102–568 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1992, and shall apply with respect to months after September 1992. The amendment made by subsection (c) [amending this section] shall take effect on November 1, 1992, and shall apply with respect to months after October 1992.''

EFFECTIVE DATE OF 1991 AMENDMENTS

Section 101(b) of Pub. L. 102–86 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if contained in section 111 of the Veterans' Benefits Amendments of 1989 (Public Law 101–237; 103 Stat. 2064).''

Section 304(b) of Pub. L. 102–40 provided that: ''The amendment made by subsection (a) [amending this section] shall apply as if included in the amendment made by section 8003(a) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388–874).''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 8003(b) of Pub. L. 101–508 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on November 1, 1990, or the date of the enactment of this Act [Nov. 5, 1990], whichever is later.''

EFFECTIVE DATE OF 1989 AMENDMENT

Section 111(b) of Pub. L. 101–237 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on February 1, 1990.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 17, 1981, and applicable with respect to veterans admitted to a Veterans' Administration hospital or nursing home on or after such date, see section 701(b)(5) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 effective Oct. 1, 1980, see section 601(b) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–177 effective Jan. 1, 1974, see section 8 of Pub. L. 93–177, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective first day of second calendar month which begins after June 30, 1972,

see section 301(a) of Pub. L. 92–328, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 5(b) of Pub. L. 88–450 provided that: ''The amendment made by this section [amending this section] shall apply only with respect to compensation or pension based upon need of regular aid and attendance in the case of veterans admitted for hospitalization on or after the first day of the second calendar month which begins after the date of enactment of this Act [Aug. 19, 1964].''

EFFECTIVE DATE OF 1962 AMENDMENTS

Amendment by Pub. L. 87–645 effective first day of first calendar month which begins after Sept. 7, 1962, see section 4 of Pub. L. 87–645, set out as a note under section 1112 of this title.

Section 2(b) of Pub. L. 87–556 provided that: ''The amendments made by this Act [amending this section] shall take effect on the first day of the first calendar month which begins more than thirty days after the date of enactment of this Act [July 27, 1962].''

EFFECTIVE DATE OF 1959 AMENDMENTS

Amendment by Pub. L. 86–211 effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as a note under section 1521 of this title.

Amendment by Pub. L. 86–146 effective first day of first calendar month which begins more than ninety days after Aug. 7, 1959, see section 3 of Pub. L. 86–146, set out as a note under section 5502 of this title.

IMPROVEMENT IN PENSION PROGRAM ADMINISTRATION; REPORT TO CONGRESSIONAL COMMITTEES

Pub. L. 99–166, title I, § 108(d), Dec. 3, 1985, 99 Stat. 947, provided that (1) in order to improve timeliness of adjustments made pursuant to subsec. (a) of this section, in amount of pension being paid to a veteran being furnished nursing home care by Veterans' Administration, the Chief Medical Director [now Under Secretary for Health] of the Veterans' Administration was to develop improved procedures for notifying the Chief Benefits Director [now Under Secretary for Benefits] of the Veterans' Administration when a veteran is admitted to a nursing home, and (2) the Administrator was to submit to Committees on Veterans' Affairs of the Senate and House of Representatives a report, within 90 days, on development and implementation of such procedures.

REGULATIONS; WAIVER FOR HARDSHIP REASONS

Section 402(b) of Pub. L. 98–543 directed the Administrator to prescribe regulations under subsec. (b)(1)(C) of this section not later than 60 days after Oct. 24, 1984.

PAYMENT OF LUMP SUM COMPENSATION OR RETIREMENT PAY TO VETERANS WITHHELD PURSUANT TO PROVISIONS IN EFFECT ON THE DAY BEFORE THE EFFECTIVE DATE OF PUB. L. 92–328

Section 106 of Pub. L. 92–328 provided that: ''All compensation or retirement pay which is being withheld pursuant to the provisions of subsections (a) and (b)(1) of section 3203 [now 5503], title 38, United States Code, in effect on the day before the effective date of this Act, shall be paid to the veteran, if competent, in a lump sum. If the veteran is incompetent, the withheld amounts shall be paid in a lump sum, or successive lump sums, subject to the $1,500 and $500 limitations of subsection (b)(1) of such section 3203 [now 5503] as amended by this Act. If a competent veteran dies before payment is made the withheld amounts shall be paid according to the order of precedence, and subject to the time limitation, of subsection (a)(2) of such section 3203 [now 5503] in effect the day before the effective date of this Act. In the event of the death of an incompetent veteran before payment of all withheld amounts, no part of the remainder shall be payable.''

[For effective date of Pub. L. 92–328, see Effective Date of 1972 Amendment notes set out under sections 1114, 1134, and 3713 of this title.]

APPLICABILITY OF 1966 AMENDMENTS TO ANY PENSION ELIGIBILITY WHICH IS SUBJECT TO VETERANS' PENSION ACT OF 1959

Section 3 of Pub. L. 89–362 provided that: ''The amendments made by this Act [amending this section] shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959 [set out as a note under section 1521 of this title].''

APPLICABILITY OF 1962 AMENDMENTS TO PERSONS NOT ELECTING PENSION UNDER VETERANS' ACT OF 1959

Section 2(a) of Pub. L. 87–556 provided that: ''The amendments made by this Act [amending this section] shall not apply to cases in which pension is payable pursuant to sections 9(b) and (c) of the Veterans' Pension Act of 1959 [set out as notes under section 1521 of this title].''

Section 2 of Pub. L. 87–544 provided that: ''The amendment made by this Act [amending this section] shall also apply to cases in which pension eligibility is subject to the provisions of section 9(b) of the Veterans' Pension Act of 1959 [set out as notes under section 1521 of this title].''

§ 5504. Administration of trust funds

All cash balances in the personal funds of patients and the funds due incompetent beneficiaries trust funds administered by the Secretary, and all moneys received which are properly for deposit into these funds, may be deposited, respectively, into deposit fund accounts with the United States Treasury and such balances and deposits shall thereupon be available for disbursement for properly authorized purposes. When any balances have been on deposit with the Treasurer of the United States for more than one year and represent moneys belonging to individuals whose whereabouts are unknown, they shall be transferred and disposed of as directed in section 1322(a) of title 31.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1235, § 3204; Pub. L. 97–258, § 3(k)(5), Sept. 13, 1982, 96 Stat. 1065; renumbered § 5504, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3204 of this title as this section.

Pub. L. 102–83 substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1982—Pub. L. 97–258 substituted ''section 1322(a) of title 31'' for ''the last proviso of subsection (a) of section 725s of title 31''.

[§ 5505. Repealed. Pub. L. 103–446, title XII, § 1201(g)(4)(A), Nov. 2, 1994, 108 Stat. 4687]

Section, added Pub. L. 101–508, title VIII, § 8001(a)(1), Nov. 5, 1990, 104 Stat. 1388–341, § 3205; renumbered § 5505, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238, related to limitation on compensation payments for certain incompetent veterans.

§ 5506. Definition of "fiduciary"

For purposes of this chapter and chapter 61 of this title, the term ''fiduciary'' means—

(1) a person who is a guardian, curator, conservator, committee, or person legally vested

with the responsibility or care of a claimant (or a claimant's estate) or of a beneficiary (or a beneficiary's estate); or

(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.

(Added Pub. L. 108–454, title V, § 501(a)(1), Dec. 10, 2004, 118 Stat. 3617.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5507. Inquiry, investigations, and qualification of fiduciaries

(a) Any certification of a person for payment of benefits of a beneficiary to that person as such beneficiary's fiduciary under section 5502 of this title shall be made on the basis of—

(1) an inquiry or investigation by the Secretary of the fitness of that person to serve as fiduciary for that beneficiary, such inquiry or investigation—

(A) to be conducted in advance of such certification;

(B) to the extent practicable, to include a face-to-face interview with such person; and

(C) to the extent practicable, to include a copy of a credit report for such person issued within one year of the date of the proposed appointment;

(2) adequate evidence that certification of that person as fiduciary for that beneficiary is in the interest of such beneficiary (as determined by the Secretary under regulations); and

(3) the furnishing of any bond that may be required by the Secretary.

(b) As part of any inquiry or investigation of any person under subsection (a), the Secretary shall request information concerning whether that person has been convicted of any offense under Federal or State law which resulted in imprisonment for more than one year. If that person has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary finds that the person is an appropriate person to act as fiduciary for the beneficiary concerned under the circumstances.

(c)(1) In the case of a proposed fiduciary described in paragraph (2), the Secretary, in conducting an inquiry or investigation under subsection (a)(1), may carry out such inquiry or investigation on an expedited basis that may include waiver of any specific requirement relating to such inquiry or investigation, including the otherwise applicable provisions of subparagraphs (A), (B), and (C) of such subsection. Any such inquiry or investigation carried out on such an expedited basis shall be carried out under regulations prescribed for purposes of this section.

(2) Paragraph (1) applies with respect to a proposed fiduciary who is—

(A) the parent (natural, adopted, or stepparent) of a beneficiary who is a minor;

(B) the spouse or parent of an incompetent beneficiary;

(C) a person who has been appointed a fiduciary of the beneficiary by a court of competent jurisdiction; or

(D) being appointed to manage an estate where the annual amount of veterans benefits to be managed by the proposed fiduciary does not exceed $3,600, as adjusted pursuant to section 5312 of this title.

(d) TEMPORARY FIDUCIARIES.—When in the opinion of the Secretary, a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed or a fiduciary is appealing a determination of misuse, the Secretary may appoint one or more temporary fiduciaries for a period not to exceed 120 days. If a final decision has not been made within 120 days, the Secretary may not continue the appointment of the fiduciary without obtaining a court order for appointment of a guardian, conservator, or other fiduciary under the authority provided in section 5502(b) of this title.

(Added Pub. L. 108–454, title V, § 502(a), Dec. 10, 2004, 118 Stat. 3618.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5508. Periodic onsite reviews of institutional fiduciaries

In addition to such other reviews of fiduciaries as the Secretary may otherwise conduct, the Secretary shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under laws administered by the Secretary to another individual pursuant to the appointment of such person or agency as a fiduciary under section 5502(a)(1) of this title in any case in which the fiduciary is serving in that capacity with respect to more than 20 beneficiaries and the total annual amount of such benefits exceeds $50,000, as adjusted pursuant to section 5312 of this title.

(Added Pub. L. 108–454, title V, § 504(a)(1), Dec. 10, 2004, 118 Stat. 3620.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5509. Authority to require fiduciary to receive payments at regional offices of the Department when failing to provide required accounting

(a) REQUIRED REPORTS AND ACCOUNTINGS.—The Secretary may require a fiduciary to file a report or accounting pursuant to regulations prescribed by the Secretary.

(b) ACTIONS UPON FAILURE TO FILE.—In any case in which a fiduciary fails to submit a report or accounting required by the Secretary under subsection (a), the Secretary may, after furnishing notice to such fiduciary and the beneficiary

entitled to such payment of benefits, require that such fiduciary appear in person at a regional office of the Department serving the area in which the beneficiary resides in order to receive such payments.

(Added Pub. L. 108–454, title V, § 504(a)(1), Dec. 10, 2004, 118 Stat. 3621.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 5510. Annual report

The Secretary shall include in the Annual Benefits Report of the Veterans Benefits Administration or the Secretary's Annual Performance and Accountability Report information concerning fiduciaries who have been appointed to receive payments for beneficiaries of the Department. As part of such information, the Secretary shall separately set forth the following: —[1]

(1) The number of beneficiaries in each category (veteran, surviving spouse, child, adult disabled child, or parent).

(2) The types of benefit being paid (compensation, pension, dependency and indemnity compensation, death pension or benefits payable to a disabled child under chapter 18 of this title).

(3) The total annual amounts and average annual amounts of benefits paid to fiduciaries for each category and type of benefit.

(4) The number of fiduciaries who are the spouse, parent, legal custodian, court-appointed fiduciary, institutional fiduciary, custodian in fact, and supervised direct payees.

(5) The number of cases in which the fiduciary was changed by the Secretary because of a finding that benefits had been misused.

(6) How such cases of misuse of benefits were addressed by the Secretary.

(7) The final disposition of such cases of misuse of benefits, including the number and dollar amount of any benefits reissued to beneficiaries.

(8) The number of fiduciary cases referred to the Office of the Inspector General and the nature of the actions taken by the Inspector General.

(9) The total amount of money recovered by the government[2] in cases arising from the misuse of benefits by a fiduciary.

(10) Such other information as the Secretary considers appropriate.

(Added Pub. L. 108–454, title V, § 505(a), Dec. 10, 2004, 118 Stat. 3621.)

EFFECTIVE DATE

Section effective Dec. 10, 2004, see section 507(b)(1) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

CHAPTER 57—RECORDS AND INVESTIGATIONS

SUBCHAPTER I—RECORDS

Sec.
5701. Confidential nature of claims.
5702. Furnishing of records.
5703. Certification of records of District of Columbia.
5704. Transcript of trial records.
5705. Confidentiality of medical quality-assurance records.

SUBCHAPTER II—INVESTIGATIONS

5711. Authority to issue subpoenas.
5712. Validity of affidavits.
5713. Disobedience to subpoena.

AMENDMENTS

1991—Pub. L. 102–54, § 14(d)(5)(B), (6)(C), June 13, 1991, 105 Stat. 286, amended table of sections at beginning of chapter as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''subpoenas'' for ''subpenas'' in item 3311 and ''subpoena'' for ''subpena'' in item 3313.

Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3301 to 3313 as 5701 to 5713, respectively.

1980—Pub. L. 96–385, title V, § 505(b), Oct. 7, 1980, 94 Stat. 1537, added item 3305.

SUBCHAPTER I—RECORDS

§ 5701. Confidential nature of claims

(a) All files, records, reports, and other papers and documents pertaining to any claim under any of the laws administered by the Secretary and the names and addresses of present or former members of the Armed Forces, and their dependents, in the possession of the Department shall be confidential and privileged, and no disclosure thereof shall be made except as provided in this section.

(b) The Secretary shall make disclosure of such files, records, reports, and other papers and documents as are described in subsection (a) of this section as follows:

(1) To a claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone when, in the judgment of the Secretary, such disclosure would not be injurious to the physical or mental health of the claimant and to an independent medical expert or experts for an advisory opinion pursuant to section 5109 or 7109 of this title.

(2) When required by process of a United States court to be produced in any suit or proceeding therein pending.

(3) When required by any department or other agency of the United States Government.

(4) In all proceedings in the nature of an inquest into the mental competency of a claimant.

(5) In any suit or other judicial proceeding when in the judgment of the Secretary such disclosure is deemed necessary and proper.

(6) In connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Secretary when in the judgment of the Secretary such disclosure is deemed necessary and proper.

(c)(1) The amount of any payment made by the Secretary to any person receiving benefits under a program administered by the Secretary shall

[1] So in original.
[2] So in original. Probably should be capitalized.

be made known to any person who applies for such information.

(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Secretary in connection with any loan guaranteed, insured, or made under chapter 37 of this title shall be made available to any person who applies for such report or certificate.

(3) Subject to the approval of the President, the Secretary may publish at any time and in any manner any or all information of record pertaining to any claim filed with the Secretary if the Secretary determines that the public interest warrants or requires such publication.

(d) The Secretary as a matter of discretion may authorize an inspection of Department records by duly authorized representatives of recognized organizations.

(e) Except as otherwise specifically provided in this section with respect to certain information, the Secretary may release information, statistics, or reports to individuals or organizations when in the Secretary's judgment such release would serve a useful purpose.

(f) The Secretary may, pursuant to regulations the Secretary shall prescribe, release the name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces, (1) to any nonprofit organization if the release is directly connected with the conduct of programs and the utilization of benefits under this title, or (2) to any criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety if a qualified representative of such agency or instrumentality has made a written request that such name or address be provided for a purpose authorized by law. Any organization or member thereof or other person who, knowing that the use of any name or address released by the Secretary pursuant to the preceding sentence is limited to the purpose specified in such sentence, willfully uses such name or address for a purpose other than those so specified, shall be guilty of a misdemeanor and be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of any subsequent offense.

(g)(1) Subject to the provisions of this subsection, and under regulations which the Secretary shall prescribe, the Secretary may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces, to a consumer reporting agency if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

(2) A release of information under paragraph (1) of this subsection concerning a person described in such paragraph may be made for the purpose of—

(A) locating such a person—

(i) who has been administratively determined to be indebted to the United States by virtue of the person's participation in a benefits program administered by the Secretary; or

(ii) if the Secretary has determined under such regulations that (I) it is necessary to locate such person in order to conduct a study pursuant to section 527 of this title or a study required by any other provision of law, and (II) all reasonable steps have been taken to assure that the release of such information to such reporting agency will not have an adverse effect on such person; or

(B) obtaining a consumer report in order to assess the ability of a person described in subparagraph (A)(i) of this paragraph to repay the indebtedness of such person to the United States, but the Secretary may release the name or address of such person for the purpose stated in this clause only if the Secretary determines under such regulations that such person has failed to respond appropriately to administrative efforts to collect such indebtedness.

(3) The Secretary may also release to a consumer reporting agency, for the purposes specified in subparagraph (A) or (B) of paragraph (2) of this subsection, such other information as the Secretary determines under such regulations is reasonably necessary to identify a person described in such paragraph, except that the Secretary may not release to a consumer reporting agency any information which indicates any indebtedness on the part of such person to the United States or any information which reflects adversely on such person. Before releasing any information under this paragraph, the Secretary shall, under such regulations, take reasonable steps to provide for the protection of the personal privacy of persons about whom information is proposed to be released under this paragraph.

(4)(A) If the Secretary determines, under regulations which the Secretary shall prescribe, that a person described in paragraph (1) of this subsection has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness of such person described in paragraph (2)(A)(i) of this subsection, the Secretary may release information concerning the indebtedness, including the name and address of such person, to a consumer reporting agency for the purpose of making such information available for inclusion in consumer reports regarding such person and, if necessary, for the purpose of locating such person, if—

(i) the Secretary has (I) made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 5302 of this title, (II) afforded such person a reasonable opportunity to exercise such rights, and (III) made a determination with respect to any such dispute or request; and

(ii) thirty calendar days have elapsed after the day on which the Secretary has made a determination that reasonable efforts have been made to notify such person (I) that the Secretary intends to release such information for such purpose or purposes, and (II) that, upon the request of such person, the Secretary shall inform such person of whether such information has been so released and of the name and address of each consumer reporting agency to

which such information was released by the Secretary and of the specific information so released.

(B) After release of any information under subparagraph (A) of this paragraph concerning the indebtedness of any person, the Secretary shall promptly notify—

(i) each consumer reporting agency to which such information has been released by the Secretary; and

(ii) each consumer reporting agency described in subsection (i)(3)(B)(i) of this section to which such information has been transmitted by the Secretary through a consumer reporting agency described in subsection (i)(3)(B)(ii)(I) of this section,

of any substantial change in the status or amount of such indebtedness and, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly verify or correct, as appropriate, such information. The Secretary shall also, after the release of such information, inform such person, upon the request of such person, of the name and address of each consumer reporting agency described in clause (i) or (ii) of this subparagraph to which such information was released or transmitted by the Secretary and of the specific information so released or transmitted.

(h)(1) Under regulations which the Secretary shall prescribe, the Secretary may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces (and other information relating to the identity of such person), to any person in a category of persons described in such regulations and specified in such regulations as a category of persons to whom such information may be released, if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

(2) A release of information under paragraph (1) of this subsection may be made for the purpose of—

(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Secretary for the purchase of property acquired by the Secretary under section 3720(a)(5) of this title;

(B) verifying, either before or after the Secretary has approved a person's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Secretary regarding the creditworthiness, credit capacity, income, or financial resources of such person;

(C) offering for sale or other disposition by the Secretary, pursuant to section 3720 of this title, any loan or installment sale contract owned or held by the Secretary; or

(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Secretary promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

(i)(1) No contract entered into for any of the purposes of subsection (g) or (h) of this section, and no action taken pursuant to any such contract or either such subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or any employee of a consumer reporting agency.

(2) The Secretary shall take reasonable steps to provide for the protection of the personal privacy of persons about whom information is disclosed under subsection (g) or (h) of this section.

(3) For the purposes of this subsection and of subsection (g) of this section—

(A) The term ''consumer report'' has the meaning provided such term in subsection (d) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)).

(B) The term ''consumer reporting agency'' means—

(i) a consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or

(ii) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.

(j) Except as provided in subsection (i)(1) of this section, any disclosure made pursuant to this section shall be made in accordance with the provisions of section 552a of title 5.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1236, § 3301; Pub. L. 87–671, § 2, Sept. 19, 1962, 76 Stat. 557; Pub. L. 91–24, § 11, June 11, 1969, 83 Stat. 34; Pub. L. 92–540, title IV, § 412, Oct. 24, 1972, 86 Stat. 1093; Pub. L. 94–321, § 1(a), June 29, 1976, 90 Stat. 713; Pub. L. 94–581, title II, § 210(b), Oct. 21, 1976, 90 Stat. 2863; Pub. L. 96–466, title VI, § 606, Oct. 17, 1980, 94 Stat. 2212; Pub. L. 101–94, title III, § 302(a), Aug. 16, 1989, 103 Stat. 628; renumbered § 5701 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 2(c)(6), 4(a)(1), (2)(A)(xi), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 402–406; Pub. L. 107–14, § 8(a)(13), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (g)(2)(B). Pub. L. 107–14 substituted ''subparagraph (A)(i)'' for ''clause (A)(i)''.

Subsec. (g)(3). Pub. L. 107–14 substituted ''subparagraph (A) or (B)'' for ''clause (A) or (B)''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3301 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and in pars. (1), (5), and (6).

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in par. (6).

Pub. L. 102–40, § 402(d)(1), substituted ''5109'' and ''7109'' for ''3009'' and ''4009'', respectively, in par. (1).

Subsec. (c)(1). Pub. L. 102–83, § 4(a)(2)(A)(xi), substituted ''Secretary'' for first reference to ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (c)(2). Pub. L. 102–83, § 4(a)(2)(A)(xi), substituted ''Secretary'' for ''Veterans' Administration''.

Subsec. (c)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(2)(A)(xi), substituted ''Secretary'' for ''Veterans' Administration'' after ''with the''.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's''.

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (g)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (g)(2)(A)(i). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (g)(2)(A)(ii). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 2(c)(6), substituted ''section 527'' for ''section 219''.

Subsec. (g)(2)(B), (3), (4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (g)(4)(A)(i). Pub. L. 102–40, § 402(d)(1), substituted ''5302'' for ''3102''.

Subsec. (h). Pub. L. 102–83, § 5(c)(1), substituted ''3720(a)(5)'' for ''1820(a)(5)'' in par. (2)(A) and ''3720'' for ''1820'' in par. (2)(C).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (i)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1989—Subsec. (b)(1). Pub. L. 101–94 substituted ''section 3009 or 4009'' for ''section 4009''.

1980—Subsec. (a). Pub. L. 96–466, § 606(a), substituted ''members of the Armed Forces'' for ''personnel of the armed services''.

Subsec. (b)(6). Pub. L. 96–466, § 606(b), added par. (6).

Subsec. (c). Pub. L. 96–466, § 606(c), designated existing provisions as pars. (1) and (3) with minor changes in language, and in par. (1) as so designated, substituted reference to the amount of any payment made by the Veterans' Administration to any person receiving benefits under a program administered by the Veterans' Administration for reference to the amount of pension, compensation, or dependency and indemnity compensation of any beneficiary, and added par. (2).

Subsec. (f). Pub. L. 96–466, § 606(d), substituted ''name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces'' for ''names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents'' and ''written request that such name or address'' for ''written request that such names or addresses''.

Subsecs. (g) to (i). Pub. L. 96–466, § 606(e), added subsecs. (g) to (i). Former subsec. (g) redesignated (j).

Subsec. (j). Pub. L. 96–466, § 606(e), (f), redesignated former subsec. (g) as (j) and substituted ''Except as provided in subsection (i)(1) of this section, any'' for ''Any''.

1976—Subsec. (a). Pub. L. 94–321, § 1(a)(1), (2), designated introductory par. as subsec. (a) and as so designated, substituted ''provided in this section.'' for ''follows:''.

Subsec. (b). Pub. L. 94–321, § 1(a)(2), added subsec. (b). Pars. (1) to (5), formerly set out following introductory par., became part of such subsec. (b).

Subsec. (b)(1). Pub. L. 94–581, § 210(b)(1), substituted ''claimant or duly authorized agent or representative of a claimant as to matters concerning the claimant alone'' for ''claimant or his duly authorized agent or representative as to matters concerning himself alone''.

Subsec. (c). Pub. L. 94–321, § 1(a)(3), redesignated par. (6) as subsec. (c).

Subsec. (d). Pub. L. 94–581, § 210(b)(2), substituted ''as a matter of discretion'' for ''in his discretion''.

Pub. L. 94–321, § 1(a)(3), redesignated par. (7) as subsec. (d).

Subsec. (e). Pub. L. 94–581, § 210(b)(3), substituted ''in the Administrator's judgment'' for ''in his judgment''.

Pub. L. 94–321, § 1(a)(3), (4), redesignated par. (8) as subsec. (e) and substituted ''Except as otherwise specifically provided in this section with respect to certain information, the'' for ''The''.

Subsec. (f). Pub. L. 94–321, § 1(a)(3), (5), redesignated par. (9) as subsec. (f) and inserted provision relating to the release of information pursuant to this subsection to criminal or civil law enforcement governmental agencies and increased the penalty for misuse of such information to the status of a misdemeanor, with a fine of not more than $5,000 for the first offense and not more than $20,000 for any subsequent offense.

Subsec. (g). Pub. L. 94–321, § 1(a)(5), added subsec. (g).

1972—Pub. L. 92–540 in introductory provision inserted reference to the names and addresses of present or former personnel of the armed forces, and their dependents, in the possession of the Veterans' Administration, and added par. (9).

1969—Par. (1). Pub. L. 91–24 substituted ''the claimant and to an independent'' for ''the claimant. And to an independent''.

1962—Par. (1). Pub. L. 87–671 inserted provisions authorizing disclosure to an independent medical expert or experts for an advisory opinion pursuant to section 4009 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 302(c) of Pub. L. 101–94 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 4092 [now 7292] of this title] shall take effect as if included in the Veterans' Judicial Review Act [div. A of Pub. L. 100–687].''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

Section 1(b) of Pub. L. 94–321 provided that: ''The amendments made by subsection (a) of this section with respect to subsection (f) (as redesignated by subsection (a)(3) of this section) of section 3301 [now 5701] of title 38, United States Code (except for the increase in criminal penalties for a violation of the second sentence of such subsection (f)), shall be effective with respect to names or addresses released on and after October 24, 1972.''

EFFECTIVE DATE OF 1962 AMENDMENT

Section 4 of Pub. L. 87–671 provided that: ''The amendments made by this Act [enacting section 4009 [now 7109] of this title and amending this section] shall be effective January 1, 1963.''

§ 5702. Furnishing of records

(a) Any person desiring a copy of any record, paper, and so forth, in the custody of the Sec-

retary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state specifically—

(1) the particular record, paper, and so forth, a copy of which is desired and whether certified or uncertified; and

(2) the purpose for which such copy is desired to be used.

(b) The Secretary may establish a schedule of fees for copies and certification of such records.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1236, § 3302; renumbered § 5702 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(2)(A)(xii), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 103–446, title XII, § 1201(e)(16), Nov. 2, 1994, 108 Stat. 4686.)

AMENDMENTS

1994—Pub. L. 103–446, § 1201(e)(16)(A), (B), inserted ''(a)'' before ''Any person desiring'' and substituted ''custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state'' for ''custody of the Secretary, which may be disclosed under section 5701 of this title, must make written application therefor to the Secretary, stating''.

Subsec. (b). Pub. L. 103–446, § 1201(e)(16)(C), which directed amendment of subsec. (c) by substituting ''may establish'' for ''is authorized to fix'', was executed to subsec. (b) to reflect the probable intent of Congress, because the language sought to be amended appears in subsec. (b) and this section does not contain a subsec. (c).

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3302 of this title as this section.

Pub. L. 102–83, § 4(a)(2)(A)(xii), which directed amendment of subsec. (a) of this section by substituting ''Secretary'' for ''Veterans' Administration'' in two places, was executed to the undesignated first par., to reflect the probable intent of Congress.

Pub. L. 102–40, § 402(d)(1), substituted ''5701'' for ''3301'' in undesignated first par.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

§ 5703. Certification of records of District of Columbia

When a copy of any public record of the District of Columbia is required by the Secretary to be used in determining the eligibility of any person for benefits under laws administered by the Secretary, the official custodian of such public record shall without charge provide the applicant for such benefits or any person (including any veterans' organization) acting on the veteran's behalf or the authorized representative of the Secretary with a certified copy of such record.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1237, § 3303; Pub. L. 99–576, title VII, § 701(78), Oct. 28, 1986, 100 Stat. 3298; renumbered § 5703, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (2)(A)(xiii), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3303 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Veterans' Administration'' in two places and ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''the veteran's'' for ''his''.

§ 5704. Transcript of trial records

The Secretary may purchase transcripts of the record, including all evidence, of trial of litigated cases.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1237, § 3304; renumbered § 5704, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3304 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

§ 5705. Confidentiality of medical quality-assurance records

(a) Records and documents created by the Department as part of a medical quality-assurance program (other than reports submitted pursuant to section 7311(g)[1] of this title) are confidential and privileged and may not be disclosed to any person or entity except as provided in subsection (b) of this section.

(b)(1) Subject to paragraph (2) of this subsection, a record or document described in subsection (a) of this section shall, upon request, be disclosed as follows:

(A) To a Federal agency or private organization, if such record or document is needed by such agency or organization to perform licensing or accreditation functions related to Department health-care facilities or to perform monitoring, required by statute, of Department health-care facilities.

(B) To a Federal executive agency or provider of health-care services, if such record or document is required by such agency or provider for participation by the Department in a health-care program with such agency or provider.

(C) To a criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or document be provided for a purpose authorized by law.

(D) To health-care personnel, to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

(2) The name of and other identifying information regarding any individual patient or employee of the Department, or any other individual associated with the Department for purposes of a medical quality-assurance program, contained in a record or document described in subsection (a) of this section shall be deleted from any record or document before any disclosure made under this subsection if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy.

[1] See References in Text note below.

(3) No person or entity to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided in this subsection.

(4) Nothing in this section shall be construed as authority to withhold any record or document from a committee of either House of Congress or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

(5) Nothing in this section shall be construed as limiting the use of records and documents described in subsection (a) of this section within the Department (including contractors and consultants of the Department).

(6) Nothing in this section shall be construed as authorizing or requiring withholding from any person or entity the disclosure of statistical information regarding Department health-care programs (including such information as aggregate morbidity and mortality rates associated with specific activities at individual Department health-care facilities) that does not implicitly or explicitly identify individual patients or employees of the Department, or individuals who participated in the conduct of a medical quality-assurance review.

(c) For the purpose of this section, the term ''medical quality-assurance program'' means—

(1) with respect to any activity carried out before October 7, 1980, a Department systematic health-care review activity carried out by or for the Department for the purpose of improving the quality of medical care or improving the utilization of health-care resources in Department health-care facilities; and

(2) with respect to any activity carried out on or after October 7, 1980, a Department systematic health-care review activity designated by the Secretary to be carried out by or for the Department for either such purpose.

(d)(1) The Secretary shall prescribe regulations to carry out this section. In prescribing such regulations, the Secretary shall specify those activities carried out before October 7, 1980, which the Secretary determines meet the definition of medical quality-assurance program in subsection (c)(1) of this section and those activities which the Secretary has designated under subsection (c)(2) of this section. The Secretary shall, to the extent appropriate, incorporate into such regulations the provisions of the administrative guidelines and procedures governing such programs in existence on October 7, 1980.

(2) An activity may not be considered as having been designated as a medical quality-assurance program for the purposes of subsection (c)(2) of this section unless the designation has been specified in such regulations.

(e) Any person who, knowing that a document or record is a document or record described in subsection (a) of this section, willfully discloses such record or document except as provided for in subsection (b) of this section shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

(Added Pub. L. 96–385, title V, § 505(a), Oct. 7, 1980, 94 Stat. 1535, § 3305; amended Pub. L. 99–166, title II, § 201, Dec. 3, 1985, 99 Stat. 949; renumbered § 5705 and amended Pub. L. 102–40, title IV, §§ 402(b)(1), 403(b)(2), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(d)(4), June 13, 1991, 105 Stat. 285; Pub. L. 102–83, § 4(a)(2)(F), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

REFERENCES IN TEXT

Section 7311(g) of this title, referred to in subsec. (a), was repealed by Pub. L. 103–446, title XII, § 1201(g)(5), Nov. 2, 1994, 108 Stat. 4687.

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3305 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 403(b)(2), substituted ''section 7311(g)'' for ''section 4152(b)''.

Subsec. (b)(1)(A), (B). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (b)(2). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(2)(F)(i), substituted ''patient or employee of the Department'' for ''Veterans' Administration patient or employee''.

Subsec. (b)(5). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (b)(6). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Pub. L. 102–83, § 4(a)(2)(F)(ii), substituted ''patients or employees of the Department,'' for ''Veterans' Administration patients or employees''.

Subsec. (c)(1). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–54, § 14(d)(4)(A), amended subsec. (c)(1) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''October 7, 1980'' for ''the date of the enactment of this section''.

Subsec. (c)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Pub. L. 102–54, § 14(d)(4)(A), amended subsec. (c)(2) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''October 7, 1980'' for ''the date of the enactment of this section''.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–54, § 14(d)(4)(B)(i)–(iii), amended subsec. (d)(1) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''The'' for ''Not later than 180 days after the date of the enactment of this section, the'' in first sentence, substituting ''October 7, 1980,'' for ''such enactment date'' in second sentence, and striking out ''existing'' after ''provisions of the'' and inserting ''in existence on October 7, 1980'' after ''such programs'' in last sentence.

Subsec. (d)(2). Pub. L. 102–54, § 14(d)(4)(B)(iv), amended subsec. (d)(2) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''An activity may not be considered'' for ''After the date on which such regulations are first prescribed, no activity shall be considered''.

1985—Subsec. (a). Pub. L. 99–166, § 201(1), inserted ''(other than reports submitted pursuant to section 4152(b) of this title)'' after ''program''.

Subsec. (b)(6). Pub. L. 99–166, § 201(2), added par. (6).

EFFECTIVE DATE

Section effective Oct. 7, 1980, see section 601(d) of Pub. L. 96–385, set out as an Effective Date of 1980 Amendment note under section 1114 of this title.

SUBCHAPTER II—INVESTIGATIONS

§ 5711. Authority to issue subpoenas

(a) For the purposes of the laws administered by the Secretary, the Secretary, and those employees to whom the Secretary may delegate such authority, to the extent of the authority so delegated, shall have the power to—

(1) issue subpoenas for and compel the attendance of witnesses within a radius of 100 miles from the place of hearing;

(2) require the production of books, papers, documents, and other evidence;

(3) take affidavits and administer oaths and affirmations;

(4) aid claimants in the preparation and presentation of claims; and

(5) make investigations and examine witnesses upon any matter within the jurisdiction of the Department.

(b) Any person required by such subpoena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1237, § 3311; renumbered § 5711, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(d)(5)(A), June 13, 1991, 105 Stat. 286.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3311 of this title as this section.

Pub. L. 102–54 amended section as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''subpoenas'' for ''subpenas'' in section catchline and amending text generally. Prior to amendment, text read as follows: ''For the purposes of the laws administered by the Veterans' Administration, the Administrator, and those employees to whom the Administrator may delegate such authority, to the extent of the authority so delegated, shall have the power to issue subpenas for and compel the attendance of witnesses within a radius of one hundred miles from the place of hearing, to require the production of books, papers, documents, and other evidence, to take affidavits, to administer oaths and affirmations, to aid claimants in the preparation and presentation of claims, and to make investigations and examine witnesses upon any matter within the jurisdiction of the Veterans' Administration. Any person required by such subpena to attend as a witness shall be allowed and paid the same fees and mileage as are paid witnesses in the district courts of the United States.''

§ 5712. Validity of affidavits

Any such oath, affirmation, affidavit, or examination, when certified under the hand of any such employee by whom it was administered or taken and authenticated by the seal of the Department, may be offered or used in any court of the United States and without further proof of the identity or authority of such employee shall have like force and effect as if administered or taken before a clerk of such court.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1237, § 3312; renumbered § 5712, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3312 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration''.

§ 5713. Disobedience to subpoena

In case of disobedience to any such subpoena, the aid of any district court of the United States may be invoked in requiring the attendance and testimony of witnesses and the production of documentary evidence, and such court within the jurisdiction of which the inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any officer, agent, or employee of any corporation or to any other person, issue an order requiring such corporation or other person to appear or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1237, § 3313; renumbered § 5713, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(d)(6)(A), (B), June 13, 1991, 105 Stat. 286.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3313 of this title as this section.

Pub. L. 102–54 amended section as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''subpoena'' for ''subpena'' in section catchline and in two places in text.

CHAPTER 59—AGENTS AND ATTORNEYS

Sec.
5901. Prohibition against acting as claims agent or attorney.
5902. Recognition of representatives of organizations.
5903. Recognition with respect to particular claims.
5904. Recognition of agents and attorneys generally.
5905. Penalty for certain acts.

AMENDMENTS

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3401 to 3405 as 5901 to 5905, respectively.

§ 5901. Prohibition against acting as claims agent or attorney

Except as provided by section 500 of title 5, no individual may act as an agent or attorney in the preparation, presentation, or prosecution of any claim under laws administered by the Secretary unless such individual has been recognized for such purposes by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1238, § 3401; Pub. L. 91–24, § 12(a), June 11, 1969, 83 Stat. 34; Pub. L. 99–576, title VII, § 701(79), Oct. 28, 1986, 100 Stat. 3298; renumbered § 5901, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3401 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''such individual'' for ''he''.

1969—Pub. L. 91–24 substituted ''Except as provided by section 500 of title 5, no individual may act'' for ''No individual may act''.

§ 5902. Recognition of representatives of organizations

(a)(1) The Secretary may recognize representatives of the American National Red Cross, the American Legion, the Disabled American Veterans, the United Spanish War Veterans, the Veterans of Foreign Wars, and such other organizations as the Secretary may approve, in the preparation, presentation, and prosecution of claims under laws administered by the Secretary.

(2) The Secretary may, in the discretion of the Secretary, furnish, if available, space and office facilities for the use of paid full-time representatives of national organizations so recognized.

(b) No individual shall be recognized under this section—

(1) unless the individual has certified to the Secretary that no fee or compensation of any nature will be charged any individual for services rendered in connection with any claim; and

(2) unless, with respect to each claim, such individual has filed with the Secretary a power of attorney, executed in such manner and form as the Secretary may prescribe.

(c)(1) Unless a claimant specifically indicates in a power of attorney filed with the Department a desire to appoint only a recognized representative of an organization listed in or approved under subsection (a), the Secretary may, for any purpose, treat the power of attorney naming such an organization, a specific office of such an organization, or a recognized representative of such an organization as the claimant's representative as an appointment of the entire organization as the claimant's representative.

(2) Whenever the Secretary is required or permitted to notify a claimant's representative, and the claimant has named in a power of attorney an organization listed in or approved under subsection (a), a specific office of such an organization, or a recognized representative of such an organization without specifically indicating a desire to appoint only a recognized representative of the organization, the Secretary shall notify the organization at the address designated by the organization for the purpose of receiving the notification concerned.

(d) Service rendered in connection with any such claim, while not on active duty, by any retired officer, warrant officer, or enlisted member of the Armed Forces recognized under this section shall not be a violation of sections 203, 205, 206, or 207 of title 18.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1238, § 3402; Pub. L. 91–24, § 12(b), June 11, 1969, 83 Stat. 34; Pub. L. 98–160, title VII, § 703(5), Nov. 21, 1983, 97 Stat. 1010; renumbered § 5902, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 104–275, title V, § 508(a), Oct. 9, 1996, 110 Stat. 3343.)

AMENDMENTS

1996—Subsecs. (c), (d). Pub. L. 104–275 added subsec. (c) and redesignated former subsec. (c) as (d).

1991—Pub. L. 102–40 renumbered section 3402 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsecs. (a)(2), (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1983—Subsec. (a)(1). Pub. L. 98–160, § 703(5)(A), substituted ''the Administrator'' for ''he''.

Subsec. (a)(2). Pub. L. 98–160, § 703(5)(B), substituted ''the discretion of the Administrator'' for ''his discretion''.

Subsec. (b)(1). Pub. L. 98–160, § 703(5)(C), substituted ''the individual'' for ''he''.

Subsec. (c). Pub. L. 98–160, § 703(5)(D), substituted ''member'' for ''man''.

1969—Subsec. (c). Pub. L. 91–24 substituted ''sections 203, 205, 206 or 207 of title 18'' for ''section 281 or 283 of title 18, or a violation of section 99 of title 5''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 508(b) of Pub. L. 104–275 provided that: ''The amendments made by this section [amending this section] apply to any power of attorney filed with the Department of Veterans Affairs, regardless of the date of its execution.''

§ 5903. Recognition with respect to particular claims

The Secretary may recognize any individual for the preparation, presentation, and prosecution of any particular claim for benefits under any of the laws administered by the Secretary if—

(1) such individual has certified to the Secretary that no fee or compensation of any nature will be charged any individual for services rendered in connection with such claim; and

(2) such individual has filed with the Secretary a power of attorney, executed in such manner and in such form as the Secretary may prescribe.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1238, § 3403; renumbered § 5903, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3403 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and wherever appearing in pars. (1) and (2).

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in introductory provisions.

§ 5904. Recognition of agents and attorneys generally

(a) The Secretary may recognize any individual as an agent or attorney for the preparation, presentation, and prosecution of claims under laws administered by the Secretary. The Secretary may require that individuals, before being recognized under this section, show that they are of good moral character and in good repute, are qualified to render claimants valuable service, and otherwise are competent to assist claimants in presenting claims.

(b) The Secretary, after notice and opportunity for a hearing, may suspend or exclude from further practice before the Department any agent or attorney recognized under this section if the Secretary finds that such agent or attorney—

(1) has engaged in any unlawful, unprofessional, or dishonest practice;

(2) has been guilty of disreputable conduct;

(3) is incompetent;

(4) has violated or refused to comply with any of the laws administered by the Secretary, or with any of the regulations or instructions governing practice before the Department; or

(5) has in any manner deceived, misled, or threatened any actual or prospective claimant.

(c)(1) Except as provided in paragraph (3), in connection with a proceeding before the Department with respect to benefits under laws administered by the Secretary, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.

(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of this subsection, represents a person before the Department or the Board of Veterans' Appeals after the Board first makes a final decision in the case shall file a copy of any fee agreement between them with the Board at such time as may be specified by the Board. The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or order of the Board under the preceding sentence may be reviewed by the United States Court of Appeals for Veterans Claims under section 7263(d) of this title.

(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.

(d)(1) When a claimant and an attorney have entered into a fee agreement described in paragraph (2) of this subsection, the total fee payable to the attorney may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim.

(2)(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the attorney—

(i) is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.

(B) For purposes of subparagraph (A) of this paragraph, a claim shall be considered to have been resolved in a manner favorable to the claimant if all or any part of the relief sought is granted.

(3) To the extent that past-due benefits are awarded in any proceeding before the Secretary, the Board of Veterans' Appeals, or the United States Court of Appeals for Veterans Claims, the Secretary may direct that payment of any attorneys' fee under a fee arrangement described in paragraph (1) of this subsection be made out of such past-due benefits. In no event may the Secretary withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Secretary, the Board of Veterans' Appeals, or Court of Appeals for Veterans Claims making (or ordering the making of) the award.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1238, § 3404; Pub. L. 99–576, title VII, § 701(80), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100–687, div. A, title I, § 104(a), Nov. 18, 1988, 102 Stat. 4108; renumbered § 5904 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 102–405, title III, § 303(a), Oct. 9, 1992, 106 Stat. 1985; Pub. L. 103–446, title V, § 504(a), Nov. 2, 1994, 108 Stat. 4663; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsecs. (c)(2), (d)(3). Pub. L. 105–368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals" wherever appearing.

1994—Subsec. (d)(2)(A). Pub. L. 103–446 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "A fee agreement referred to in paragraph (1) of this subsection is one under which (i) the amount of the fee payable to the attorney is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim, and (ii) the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant."

1992—Subsec. (c)(1). Pub. L. 102–405, § 303(a)(1), substituted "Except as provided in paragraph (3), in" for "In".

Subsec. (c)(3). Pub. L. 102–405, § 303(a)(2), added par. (3).

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3404 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102–83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in introductory provisions and in par. (4).

Pub. L. 102–83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration" in par. (4).

Subsec. (c)(1). Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Pub. L. 102–83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (c)(2). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''7263(d)'' for ''4063(d)''.

Subsec. (d)(2)(A), (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsecs. (c), (d). Pub. L. 100–687 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: ''The Administrator shall determine and pay fees to agents or attorneys recognized under this section in allowed claims for monetary benefits under laws administered by the Veterans' Administration. Such fees—

''(1) shall be determined and paid as prescribed by the Administrator;

''(2) shall not exceed $10 with respect to any one claim; and

''(3) shall be deducted from monetary benefits claimed and allowed.''

1986—Subsec. (b). Pub. L. 99–576 substituted ''the Administrator'' for ''he'' in introductory text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 504(b) of Pub. L. 103–446 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act [Nov. 2, 1994].''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 303(b) of Pub. L. 102–405 provided that: ''Paragraph (3) of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act [Oct. 9, 1992].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title.

FEE AGREEMENTS

Subsec. (d) of this section not to prevent award of fees and expenses under section 2412(d) of Title 28, Judiciary and Judicial Procedure, but subsec. (d) of this section inapplicable to such award where fees for the same work are received under both sections and claimant's attorney refunds to claimant amount of smaller fee, see section 506(c) of Pub. L. 102–572, set out as a note under section 2412 of Title 28.

APPLICABILITY TO ATTORNEYS FEES

Section 403 of Pub. L. 100–687, which provided that the amendment to subsec. (c) of this section by section 104(a) of Pub. L. 100–687 applied only to services of agents and attorneys in cases in which a notice of disagreement was filed with the Department of Veterans Affairs on or after Nov. 18, 1988, was repealed by Pub. L. 107–103, title VI, § 603(b), Dec. 27, 2001, 115 Stat. 999.

[Repeal of section 403 of Pub. L. 100–687, formerly set out above, applicable to any appeal filed with the United States Court of Appeals for Veterans Claims on or after Dec. 27, 2001, or before that date but in which a final decision has not been made under section 7291 of this title as of that date, see section 603(d) of Pub. 107–103, set out as a note under section 7251 of this title.]

§ 5905. Penalty for certain acts

Whoever (1) directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, any fee or compensation except as provided in sections 5904 or 1984 of this title, or (2) wrongfully withholds from any claimant or beneficiary any part of a benefit or claim allowed and due to the claimant or beneficiary, shall be fined as provided in title 18, or imprisoned not more than one year, or both.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1239, § 3405; Pub. L. 99–576, title VII, § 701(81), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100–687, div. A, title I, § 104(b), Nov. 18, 1988, 102 Stat. 4109; renumbered § 5905 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 5(c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3405 of this title as this section and substituted ''5904'' for ''3404''.

Pub. L. 102–83 substituted ''1984'' for ''784''.

1988—Pub. L. 100–687 substituted ''shall be fined as provided in title 18, or imprisoned not more than one year, or both'' for ''shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both''.

1986—Pub. L. 99–576 substituted ''to the claimant or beneficiary'' for ''him''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title.

CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

Sec.
6101. Misappropriation by fiduciaries.
6102. Fraudulent acceptance of payments.
6103. Forfeiture for fraud.
6104. Forfeiture for treason.
6105. Forfeiture for subversive activities.
6106. Misuse of benefits by fiduciaries.
6107. Reissuance of benefits.
6108. Authority for judicial orders of restitution.

AMENDMENTS

2004—Pub. L. 108–454, title V, §§ 503(b), 504(b)(2), Dec. 10, 2004, 118 Stat. 3620, 3621, added items 6106 to 6108.

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 3501 to 3505 as 6101 to 6105, respectively.

1959—Pub. L. 86–222, § 3(b), Sept. 1, 1959, 73 Stat. 453, added item 3505.

§ 6101. Misappropriation by fiduciaries

(a) Whoever, being a fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary, shall lend, borrow, pledge, hypothecate, use, or exchange for other funds or property, except as authorized by law, or embezzle or in any manner misappropriate any such money or property derived therefrom in whole or in part and coming into such fiduciary's control in any manner whatever in the execution of such fiduciary's trust, or under color of such fiduciary's office or service as such fiduciary, shall be fined in accordance with title 18, or imprisoned not more than five years, or both.

(b) Any willful neglect or refusal to make and file proper accountings or reports concerning such money or property as required by law shall

be taken to be sufficient evidence prima facie of such embezzlement or misappropriation.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1239, § 3501; Pub. L. 99–576, title VII, § 701(82), Oct. 28, 1986, 100 Stat. 3298; renumbered § 6101, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(d)(7), June 13, 1991, 105 Stat. 286; Pub. L. 102–83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403; Pub. L. 103–446, title XII, § 1201(e)(17), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 108–454, title V, § 501(c), Dec. 10, 2004, 118 Stat. 3618.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–454, § 501(c), substituted ''fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary,'' for ''guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant or a claimant's estate, or any other person having charge and custody in a fiduciary capacity of money heretofore or hereafter paid under any of the laws administered by the Secretary for the benefit of any minor, incompetent, or other beneficiary,''.

1994—Subsec. (a). Pub. L. 103–446 inserted a comma after ''title 18''.

1991—Pub. L. 102–40 renumbered section 3501 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–54 amended subsec. (a) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''in accordance with title 18'' for ''not more than $2,000''.

1986—Subsec. (a). Pub. L. 99–576 substituted ''a claimant's'' for ''his'' before ''estate'', and ''such fiduciary's'' for ''his'' in three places.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–454 effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 6102. Fraudulent acceptance of payments

(a) Any person entitled to monetary benefits under any of the laws administered by the Secretary whose right to payment thereof ceases upon the happening of any contingency, who thereafter fraudulently accepts any such payment, shall be fined in accordance with title 18, or imprisoned not more than one year, or both.

(b) Whoever obtains or receives any money or check under any of the laws administered by the Secretary without being entitled to it, and with intent to defraud the United States or any beneficiary of the United States, shall be fined in accordance with title 18, or imprisoned not more than one year, or both.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1239, § 3502; renumbered § 6102, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(d)(7), June 13, 1991, 105 Stat. 286; Pub. L. 102–83, § 4(a)(1), Aug. 6, 1991, 105 Stat. 403.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3502 of this title as this section.

Pub. L. 102–83 substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in subsecs. (a) and (b).

Pub. L. 102–54 amended section as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''in accordance with title 18'' for ''not more than $2,000'' in subsecs. (a) and (b).

§ 6103. Forfeiture for fraud

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Secretary (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Secretary (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited the right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to the veteran's spouse, children, and parents. Payments made to a spouse, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No spouse, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection. An apportionment award under this subsection may not be made in any case after September 1, 1959.

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of the veteran's death.

(d)(1) After September 1, 1959, no forfeiture of benefits may be imposed under this section or section 6104 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but not for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (A) any forfeiture occurring before September 1, 1959, or (B) an act or acts which occurred in the Philippine Islands before July 4, 1946.

(2) The Secretary is hereby authorized and directed to review all cases in which, because of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, a forfeiture of gratuitous benefits under laws administered by the Secretary was imposed, pursuant to this section or prior provisions of law, on or before September 1, 1959. In any such case in which the Secretary determines that the forfeiture would not have been imposed under the provisions of this section in effect after September 1, 1959, the Secretary shall remit the forfeiture, effective June 30, 1972. Benefits to which the individual concerned becomes eligible by virtue of any such remission may be awarded, upon application therefor, and the effective date of any award of compensation, dependency and indemnity compensation, or pension made in such a case shall be fixed in accordance with the provisions of section 5110(g) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1240, § 3503; Pub. L. 86–222, § 1, Sept. 1, 1959, 73 Stat. 452; Pub.

L. 91–24, § 13(a), June 11, 1969, 83 Stat. 34; Pub. L. 92–328, title II, § 206, June 30, 1972, 86 Stat. 397; Pub. L. 98–160, title VII, § 703(6), Nov. 21, 1983, 97 Stat. 1011; Pub. L. 99–576, title VII, § 701(83), Oct. 28, 1986, 100 Stat. 3298; renumbered § 6103 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(d)(8), June 13, 1991, 105 Stat. 286; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 103–446, title XII, § 1201(e)(18), (f)(5), Nov. 2, 1994, 108 Stat. 4686, 4687.)

AMENDMENTS

1994—Subsec. (d)(1). Pub. L. 103–446, § 1201(e)(18), in second sentence substituted ''(A) any'' for ''(a) any'', ''(B) an act'' for ''(b) an act'', and ''before July 4, 1946'' for ''prior to July 4, 1946''.

Subsec. (d)(2). Pub. L. 103–446, § 1201(f)(5), substituted ''June 30, 1972'' for ''the date of enactment of this amendatory Act''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 3503 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in two places.

Subsec. (b). Pub. L. 102–54, § 14(d)(8)(A), amended subsec. (b) as in effect immediately before the enactment of Pub. L. 102–40 by inserting at end ''An apportionment award under this subsection may not be made in any case after September 1, 1959.''

Subsec. (d)(1). Pub. L. 102–40, § 402(d)(1), substituted ''6104'' for ''3504''.

Subsec. (d)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in three places.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''5110(g)'' for ''3010(g)''.

Subsec. (e). Pub. L. 102–54, § 14(d)(8)(B), amended section as in effect immediately before the enactment of Pub. L. 102–40 by striking out subsec. (e) which read as follows: ''No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection.''

1986—Subsec. (c). Pub. L. 99–576, § 701(83)(A), substituted ''the veteran's'' for ''his''.

Subsec. (d)(2). Pub. L. 99–576, § 701(83)(B), substituted ''the Administrator'' for ''he'' in two places in second sentence.

1983—Subsec. (b). Pub. L. 98–160 substituted ''the right'' for ''his right'', ''the veteran's spouse'' for ''his wife'', and ''spouse'' for ''wife'' in two places.

1972—Subsec. (d). Pub. L. 92–328 designated existing provisions as par. (1) and added par. (2).

1969—Subsec. (d). Pub. L. 91–24 substituted ''September 1, 1959'' for ''the date of enactment of this subsection'' wherever appearing.

1959—Subsecs. (d) and (e). Pub. L. 86–222 added subsecs. (d) and (e).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–328 effective June 30, 1972, see section 301(c) of Pub. L. 92–328, set out as a note under section 3713 of this title.

§ 6104. Forfeiture for treason

(a) Any person shown by evidence satisfactory to the Secretary to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Secretary.

(b) The Secretary, in the Secretary's discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which the dependent would be entitled if such person were dead.

(c) In the case of any forfeiture under this section there shall be no authority after September 1, 1959 (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1240, § 3504; Pub. L. 86–222, § 2, Sept. 1, 1959, 73 Stat. 452; Pub. L. 91–24, § 13(b), June 11, 1969, 83 Stat. 34; Pub. L. 97–295, § 4(78), Oct. 12, 1982, 96 Stat. 1311; Pub. L. 99–576, title VII, § 701(84), Oct. 28, 1986, 100 Stat. 3298; renumbered § 6104, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(1), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 3504 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's''.

1986—Subsec. (b). Pub. L. 99–576 substituted ''the Administrator's'' for ''his'' and ''the dependent'' for ''he''.

1982—Subsec. (a). Pub. L. 97–295 inserted ''to'' before ''be guilty''.

1969—Subsec. (c). Pub. L. 91–24 substituted ''September 1, 1959'' for ''the date of enactment of this subsection''.

1959—Subsec. (c). Pub. L. 86–222 added subsec. (c).

§ 6105. Forfeiture for subversive activities

(a) Any individual who is convicted after September 1, 1959, of any offense listed in subsection (b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits (including the right to burial in a national cemetery) under laws administered by the Secretary based on periods of military, naval, or air service commencing before the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Secretary shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed in—

(1) sections 894, 904, and 906 of title 10 (articles 94, 104, and 106 of the Uniform Code of Military Justice);

(2) sections 175, 229, 792, 793, 794, 798, 831, 1091, 2332a, 2332b, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18;

(3) sections 222, 223, 224, 225, and 226 of the Atomic Energy Act of 1954 (42 U.S.C. 2272, 2273, 2274, 2275, and 2276); and

(4) section 4 of the Internal Security Act of 1950 (50 U.S.C. 783).

(c) The Secretary of Defense or the Secretary of Homeland Security, as appropriate, shall notify the Secretary in each case in which an individual is convicted of an offense listed in paragraph (1) of subsection (b). The Attorney General shall notify the Secretary in each case in which an individual is indicted or convicted of an offense listed in paragraph (2), (3), or (4) of subsection (b).

(Added Pub. L. 86–222, § 3(a), Sept. 1, 1959, 73 Stat. 453, § 3505; amended Pub. L. 92–128, § 2(c), Sept. 25, 1971, 85 Stat. 348; Pub. L. 93–43, § 8, June 18, 1973, 87 Stat. 88; Pub. L. 97–295, § 4(79), Oct. 12, 1982, 96 Stat. 1311; renumbered § 6105, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(d)(9), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(a)(1), (2)(A)(xiv), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 103–446, title XII, § 1201(e)(19), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 108–183, title VII, § 705(a), Dec. 16, 2003, 117 Stat. 2672.)

AMENDMENTS

2003—Subsec. (b)(2). Pub. L. 108–183 inserted ''175, 229,'' after ''sections'' and ''831, 1091, 2332a, 2332b,'' after ''798,''.

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

1994—Subsec. (c). Pub. L. 103–446 substituted ''paragraph (2), (3), or (4) of subsection (b)'' for ''clauses (2), (3), or (4) of subsection (b) of this section'' and ''paragraph (1) of subsection (b)'' for ''clause (1) of that subsection'' and transposed the first and second sentences.

1991—Pub. L. 102–40 renumbered section 3505 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(2)(A)(xiv), substituted ''Secretary'' for ''Veterans' Administration'' in second sentence.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in first sentence.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''clauses (2),'' for ''clauses (1),'', ''Secretary of Transportation, as'' for ''Secretary of the Treasury, as may be'', and ''clause (1) of that subsection'' for ''clause (2) of subsection (b) of this section''.

1982—Subsec. (a). Pub. L. 97–295, § 4(79)(A), substituted ''September 1, 1959,'' for ''the date of enactment of this section''.

Subsec. (b). Pub. L. 97–295, § 4(79)(B), substituted pars. (1), (2), and (3) for cls. (2), (1), and (3), respectively, and inserted citations to the United States Code.

1973—Subsec. (a). Pub. L. 93–43 inserted ''(including the right to burial in a national cemetery)'' after ''gratuitous benefits'' in first sentence.

1971—Subsec. (b)(4). Pub. L. 92–128 substituted ''in section 4 of the Internal Security Act of 1950'' for ''in the following sections of the Internal Security Act of 1950; sections 4, 112, and 113''.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–183, title VII, § 705(b), Dec. 16, 2003, 117 Stat. 2672, provided that: ''The amendments made by subsection (a) [amending this section] shall apply to claims filed after the date of the enactment of this Act [Dec. 16, 2003].''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–43 effective June 18, 1973, see section 10(a) of Pub. L. 93–43, set out as an Effective Date note under section 2400 of this title.

§ 6106. Misuse of benefits by fiduciaries

(a) FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY FIDUCIARIES.—A fiduciary may not collect a fee from a beneficiary for any month with respect to which the Secretary or a court of competent jurisdiction has determined that the fiduciary misused all or part of the individual's benefit, and any amount so collected by the fiduciary as a fee for such month shall be treated as a misused part of the individual's benefit.

(b) MISUSE OF BENEFITS DEFINED.—For purposes of this chapter, misuse of benefits by a fiduciary occurs in any case in which the fiduciary receives payment, under any of laws administered by the Secretary, for the use and benefit of a beneficiary and uses such payment, or any part thereof, for a use other than for the use and benefit of such beneficiary or that beneficiary's dependents. Retention by a fiduciary of an amount of a benefit payment as a fiduciary fee or commission, or as attorney's fees (including expenses) and court costs, if authorized by the Secretary or a court of competent jurisdiction, shall be considered to be for the use or benefit of such beneficiary.

(c) REGULATIONS.—The Secretary may prescribe by regulation the meaning of the term ''use and benefit'' for purposes of this section.

(Added Pub. L. 108–454, title V, § 503(a)(1), Dec. 10, 2004, 118 Stat. 3619.)

EFFECTIVE DATE

Section applicable with respect to any determinations by the Secretary of Veterans Affairs made after Dec. 10, 2004, of misuse of funds by a fiduciary, see section 507(b)(2) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 6107. Reissuance of benefits

(a) NEGLIGENT FAILURE BY SECRETARY.—(1) In any case in which the negligent failure of the Secretary to investigate or monitor a fiduciary results in misuse of benefits by the fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of benefits that were so misused.

(2) There shall be considered to have been a negligent failure by the Secretary to investigate and monitor a fiduciary in the following cases:

(A) A case in which the Secretary failed to review a fiduciary's accounting within 60 days of the date on which that accounting is scheduled for review.

(B) A case in which the Secretary was notified of allegations of misuse, but failed to act within 60 days of the date of such notification to terminate the fiduciary.

(C) In any other case in which actual negligence is shown.

(b) REISSUANCE OF MISUSED BENEFITS IN OTHER CASES.—(1) In any case in which a fiduciary described in paragraph (2) misuses all or part of an individual's benefit paid to such fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of such benefit so misused.

(2) Paragraph (1) applies to a fiduciary that—

(A) is not an individual; or

(B) is an individual who, for any month during a period when misuse occurs, serves 10 or more individuals who are beneficiaries under this title.

(3) In any other case in which the Secretary obtains recoupment from a fiduciary who has misused benefits, the Secretary shall promptly remit payment of the recouped amounts to the beneficiary or the beneficiary's successor fiduciary as the case may be.

(c) LIMITATION ON TOTAL AMOUNT PAID.—The total of the amounts paid to a beneficiary (or a beneficiary's successor fiduciary) under this section may not exceed the total benefit amount misused by the fiduciary with respect to that beneficiary.

(d) RECOUPMENT OF AMOUNTS REISSUED.—In any case in which the Secretary reissues a benefit payment (in whole or in part) under subsection (a) or (b), the Secretary shall make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.

(Added Pub. L. 108–454, title V, § 503(a)(1), Dec. 10, 2004, 118 Stat. 3619.)

EFFECTIVE DATE

Section applicable with respect to any determinations by the Secretary of Veterans Affairs made after Dec. 10, 2004, of misuse of funds by a fiduciary, see section 507(b)(2) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 6108. Authority for judicial orders of restitution

(a) Any Federal court, when sentencing a defendant convicted of an offense arising from the misuse of benefits under this title, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Department.

(b) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under subsection (a). In so applying those sections, the Department shall be considered the victim.

(c) If the court does not order restitution, or orders only partial restitution, under subsection (a), the court shall state on the record the reasons therefor.

(d) Amounts received in connection with misuse by a fiduciary of funds paid as benefits under laws administered by the Secretary shall be paid to the individual whose benefits were misused. If the Secretary has previously reissued the misused benefits, the amounts shall be treated in the same manner as overpayments recouped by the Secretary and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

(Added Pub. L. 108–454, title V, § 504(b)(1), Dec. 10, 2004, 118 Stat. 3621.)

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108–454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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AMENDMENTS

1998—Pub. L. 105–368, title V, § 512(a)(4)(B), Nov. 11, 1998, 112 Stat. 3341, substituted ''Appeals for Veterans Claims'' for ''Veterans Appeals'' in item for chapter 72.

1991—Pub. L. 102–83, § 2(d)(3), Aug. 6, 1991, 105 Stat. 402, added item for chapter 77.

Pub. L. 102–54, § 14(e)(1), June 13, 1991, 105 Stat. 287, inserted ''United States'' before ''Court of Veterans Appeals'' in item for chapter 72.

Pub. L. 102–40, title IV, §§ 402(c)(2), 403(e)(1), (f)(2), May 7, 1991, 105 Stat. 239–241, substituted ''BOARDS, ADMINISTRATIONS, AND SERVICES'' for ''BOARDS AND DEPARTMENTS'' in part heading, renumbered section numbers by substituting ''7101'' for ''4001'' in item for chapter 71, ''7251'' for ''4051'' in item for chapter 72, and ''7601'' for ''4301'' in item for chapter 76, substituted ''Veterans Health Administration—Organization and Functions'' for ''Department of Medicine and Surgery'' and ''7301'' for ''4101'' in item for chapter 73, added item for chapter 74, struck out item for chapter 75 ''Veterans' Canteen Service'', and added item for chapter 78.

1988—Pub. L. 100–687, div. A, title III, § 301(b), Nov. 18, 1988, 102 Stat. 4121, added item for chapter 72.

Pub. L. 100–322, title II, § 216(e)(2), May 20, 1988, 102 Stat. 530, added item for chapter 76.

CHAPTER 71—BOARD OF VETERANS' APPEALS

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AMENDMENTS

2003—Pub. L. 108–183, title VII, § 707(b)(2), Dec. 16, 2003, 117 Stat. 2673, added item 7112.

1997—Pub. L. 105–111, § 1(b)(2), Nov. 21, 1997, 111 Stat. 2272, added item 7111.

1994—Pub. L. 103–446, title II, § 201(a)(2), Nov. 2, 1994, 108 Stat. 4656, added item 7101A.

Pub. L. 103–271, §§ 6(b), 7(a)(2), (b)(3), July 1, 1994, 108 Stat. 742, 743, substituted ''Reconsideration; correction of obvious errors'' for ''Determinations by the Board'' in item 7103, substituted ''Appeals: dockets; hearings'' for ''Docketing of appeals'' in item 7107, and struck out item 7110 ''Traveling sections''.

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 4001 to 4010 as 7101 to 7110, respectively.

1988—Pub. L. 100–687, div. A, title II, § 207(b), Nov. 18, 1988, 102 Stat. 4112, added item 4010.

1962—Pub. L. 87–671, § 3, Sept. 19, 1962, 76 Stat. 557, added item 4009.

Pub. L. 87–666, § 2, Sept. 19, 1962, 76 Stat. 554, added item 4005A, and substituted ''Filing of notice of disagreement and appeal'' for ''Applications for review on appeal'' in item 4005, ''Administrative appeals'' for ''Docketing of appeals'' in item 4006, and ''Docketing of appeals'' for ''Simultaneously contested claims'' in item 4007.

§ 7101. Composition of Board of Veterans' Appeals

(a) There is in the Department a Board of Veterans' Appeals (hereinafter in this chapter referred to as the ''Board''). The Board is under the administrative control and supervision of a chairman directly responsible to the Secretary. The Board shall consist of a Chairman, a Vice Chairman, and such number of members as may be found necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. The Board shall have such other professional, administrative, clerical, and stenographic personnel as are necessary in conducting hearings and considering and disposing of appeals properly before the Board. The Board shall have sufficient personnel under the preceding sentence to enable the Board to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner.

(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in political activities as apply to judges of the United States Court of Appeals for Veterans Claims.

(2) The Chairman may be removed by the President for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. The Chairman may not be removed from office by the President on any other grounds. Any such removal may only be made after notice and opportunity for hearing.

(3) The Chairman may be appointed under this subsection to more than one term. If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.

(4) The Secretary shall designate one member of the Board as Vice Chairman. The Vice Chairman shall perform such functions as the Chairman may specify. Such member shall serve as Vice Chairman at the pleasure of the Secretary.

(c)(1)(A) The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman.

(B) An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C).

(C) An individual may not serve as an acting member of the Board for more than 270 days during any one-year period.

(D) At no time may the number of acting members exceed 20 percent of the total of the number of Board members and acting Board members combined.

(2) In each annual report to the Congress under section 529 of this title, the Secretary shall provide detailed descriptions of the activities undertaken and plans made in the fiscal year for which the report is made with respect to the authority provided by paragraph (1) of this subsection. In each such report, the Secretary shall indicate, in terms of full-time employee equivalents, the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made.

(d)(1) After the end of each fiscal year, the Chairman shall prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the fiscal year during which the report is prepared and the next fiscal year. Such report shall be included in the documents providing detailed information on the budget for the Department that the Secretary submits to the Congress in conjunction with the President's budget submission for any fiscal year pursuant to section 1105 of title 31.

(2) Each such report shall include, with respect to the preceding fiscal year, information specifying—

(A) the number of cases appealed to the Board during that year;

(B) the number of cases pending before the Board at the beginning and at the end of that year;

(C) the number of such cases which were filed during each of the 36 months preceding the current fiscal year;

(D) the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the preceding fiscal year;

(E) the number of members of the Board at the end of the year and the number of professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the preceding fiscal year; and

(F) the number of employees of the Department designated under subsection (c)(1) to serve as acting members of the Board during

that year and the number of cases in which each such member participated during that year.

(3) The projections in each such report for the current fiscal year and for the next fiscal year shall include (for each such year)—

(A) an estimate of the number of cases to be appealed to the Board; and

(B) an evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by section 7101(a) of this title.

(e) A performance incentive that is authorized by law for officers and employees of the Federal Government may be awarded to a member of the Board (including an acting member) by reason of that member's service on the Board only if the Chairman of the Board determines that such member should be awarded that incentive. A determination by the Chairman for such purpose shall be made taking into consideration the quality of performance of the Board member.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1240, § 4001; Pub. L. 98–223, title II, § 208(a)–(c), Mar. 2, 1984, 98 Stat. 43, 44; Pub. L. 100–687, div. A, title II, §§ 201(a), 202(b), 208, 209, Nov. 18, 1988, 102 Stat. 4109, 4110, 4112; renumbered § 7101 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(e)(2), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, §§ 2(c)(3), 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 402, 404, 405; Pub. L. 103–271, §§ 2–5, July 1, 1994, 108 Stat. 740, 741; Pub. L. 103–446, title II, §§ 201(d), 203, Nov. 2, 1994, 108 Stat. 4657; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

1998—Subsec. (b)(1). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1994—Subsec. (a). Pub. L. 103–271, § 2, struck out ''(not more than 65)'' after ''such number''.

Subsec. (b). Pub. L. 103–446, § 201(d)(1), (2), designated as par. (2) the text in par. (1) beginning ''The Chairman may be removed'' and struck out former par. (2) which read as follows:

''(2)(A) The other members of the Board (including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman. Each such member shall be appointed for a term of nine years.

''(B) A member of the Board (other than the Chairman) may be removed by the Secretary upon the recommendation of the Chairman. In the case of a removal that would be covered by section 7521 of title 5 in the case of an administrative law judge, a removal of a member of the Board under this paragraph shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of such title.''

Subsec. (b)(1). Pub. L. 103–271, § 3, inserted after first sentence ''The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in political activities as apply to judges of the United States Court of Veterans Appeals.''

Subsec. (b)(3). Pub. L. 103–446, §§ 201(d)(3), 203, substituted ''The Chairman'' for ''Members (including the Chairman)'' and inserted at end ''If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.''

Subsec. (c)(1). Pub. L. 103–271, § 4(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''Subject to paragraph (2) of this subsection, the Chairman may from time to time designate employees of the Department to serve as temporary members of the Board. Any such designation shall be for a period of not to exceed one year, as determined by the Chairman. An individual may not serve as a temporary member of the Board for more than 24 months during any 48-month period.''

Subsec. (c)(2), (3). Pub. L. 103–271, § 4(a)(2)–(4), redesignated par. (3) as (2), substituted ''the number of acting members of the Board designated under such paragraph (1) during the year for which the report is made.'' for ''the number of temporary Board members designated under this subsection and the number of acting Board members designated under section 7102(a)(2)(A)(ii) of this title during the year for which the report is made.'', and struck out former par. (2) which read as follows: ''Designation under paragraph (1) of this subsection of an individual as a temporary member of the Board may not be made when there are fewer than 65 members of the Board.''

Subsec. (d)(2)(F). Pub. L. 103–271, § 5, added subpar. (F).

Subsec. (d)(3)(B). Pub. L. 103–271, § 4(b)(2), substituted ''section 7101(a)'' for ''section 7103(d)''.

Subsec. (e). Pub. L. 103–271, § 4(b)(1), substituted ''an acting member'' for ''a temporary or acting member''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4001 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–54 amended subsec. (a) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''There is'' for ''There shall be'' and ''. The Board is under the administrative'' for ''under the administrative''.

Subsec. (b)(2), (4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (c)(1). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 2(c)(3), substituted ''section 529'' for ''section 214''.

Pub. L. 102–40, § 402(d)(1), substituted ''7102(a)(2)(A)(ii)'' for ''4002(a)(2)(A)(ii)''.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (d)(3)(B). Pub. L. 102–40, § 402(d)(1), substituted ''7103(d)'' for ''4003(d)''.

1988—Subsec. (a). Pub. L. 100–687, § 202(b), inserted ''and'' after ''Vice Chairman,'' substituted ''necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. The Board shall have'' for ''necessary, and'', and inserted provisions which required that Board have sufficient personnel to conduct hearings and consider and dispose of appeals.

Subsec. (b). Pub. L. 100–687, § 201(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Members of the Board (including the Chairman and Vice Chairman) shall be appointed by the Administrator with the approval of the President.''

Subsec. (d). Pub. L. 100–687, § 208, added subsec. (d).

Subsec. (e). Pub. L. 100–687, § 209, added subsec. (e).

1984—Subsec. (a). Pub. L. 98–223, § 208(a), (c), substituted ''65'' for ''fifty'' and struck out ''associate'' before ''members''.

Subsec. (c). Pub. L. 98–223, § 208(b), added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 201(a) of Pub. L. 100–687 effective Feb. 1, 1989, amendment by section 202(b) of Pub. L. 100–687 effective Jan. 1, 1989, and amendment by sections 208 and 209 of Pub. L. 100–687 effective Nov. 18, 1988, see section 401(b)–(d) of Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title.

BOARD OF VETERANS' APPEALS

Section 201(c), (d) of Pub. L. 100–687 provided that:

''(c) TRANSITION TO NEW BOARD.—(1) Appointments of members of the Board of Veterans' Appeals under subsection (b)(2) of section 4001 [now 7101] of title 38, United States Code (as amended by subsection (a)), may not be made until a Chairman is appointed under subsection (b)(1) of that section.

''(2) An individual who is serving as a member of the Board on the date of the enactment of this Act [Nov. 18, 1988] may continue to serve as a member until the earlier of—

''(A) the date on which the individual's successor (as designated by the Administrator) is appointed under subsection (b)(2) of that section, or

''(B) the end of the 180-day period beginning on the day after the date on which the Chairman is appointed under subsection (b)(1) of such section.

''(d) INITIAL TERMS OF OFFICE.—Notwithstanding the second sentence of section 4001(b)(2) [now 7101(b)(2)] of title 38, United States Code (as amended by subsection (a)), specifying the term for which members of the Board of Veterans' Appeals shall be appointed, of the members first appointed under that section—

''(A) 22 shall be appointed for a term of three years;

''(B) 22 shall be appointed for a term of six years; and

''(C) 22 shall be appointed for a term of nine years, as determined by the Administrator [now Secretary] at the time of the initial appointments.''

§ 7101A. Members of Board: appointment; pay; performance review

(a)(1) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

(2) Each member of the Board shall be a member in good standing of the bar of a State.

(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

(c)(1)(A) The Chairman shall establish a panel to review the performance of members of the Board. The panel shall be comprised of the Chairman and two other members of the Board (other than the Vice Chairman). The Chairman shall periodically rotate membership on the panel so as to ensure that each member of the Board (other than the Vice Chairman) serves as a member of the panel for and within a reasonable period.

(B) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the performance review panel shall determine, with respect to each member of the Board (other than the Chairman or a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

(2) If the determination of the performance review panel in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the Chairman shall recertify the member's appointment as a member of the Board.

(3) If the determination of the performance review panel in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

(A) grant the member a conditional recertification; or

(B) recommend to the Secretary that the member be noncertified.

(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3)(A) or (5)(A), the performance review panel shall review the member's job performance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the performance review panel at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

(5) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary, after considering the recommendation of the Chairman, may either—

(A) grant the member a conditional recertification; or

(B) determine that the member should be noncertified.

(d)(1) If the Secretary, based upon the recommendation of the Chairman, determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

(2)(A) Upon removal from the Board under paragraph (1) of a member of the Board who before appointment to the Board served as an attorney in the civil service, the Secretary shall appoint that member to an attorney position at the Board, if the removed member so requests. If the removed member served in an attorney position at the Board immediately before appointment to the Board, appointment to an attorney

position under this paragraph shall be in the grade and step held by the removed member immediately before such appointment to the Board.

(B) The Secretary is not required to make an appointment to an attorney position under this paragraph if the Secretary determines that the member of the Board removed under paragraph (1) is not qualified for the position.

(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than the Chairman or a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.

(Added Pub. L. 103–446, title II, § 201(a)(1), Nov. 2, 1994, 108 Stat. 4655; amended Pub. L. 105–368, title X, § 1002, Nov. 11, 1998, 112 Stat. 3363.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368, § 1002(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (d)(2). Pub. L. 105–368, § 1002(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Upon removal from the Board under paragraph (1), a member of the Board (other than the Chairman) who was a career or career-conditional employee in the civil service before commencement of service as a member of the Board shall revert to the civil service grade and series held by the member immediately before the appointment of the member to the Board.''

EFFECTIVE DATE

Section 201(c) of Pub. L. 103–446 provided that: ''Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994.''

SAVE PAY PROVISION

Section 201(b) of Pub. L. 103–446 provided that: ''The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act [Nov. 2, 1994] may not be reduced by reason of the amendments made by this section [enacting this section and amending section 7101 of this title] to a rate below the rate payable to such individual on the day before such date.''

DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS

Section 202 of Pub. L. 103–446 provided that:

''(a) DEADLINE.—The job performance standards required to be established by section 7101A(f) of title 38, United States Code, as added by section 201(a), shall be established not later than 90 days after the date of the enactment of this Act [Nov. 2, 1994].

''(b) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the standards established by the Chairman of the Board of Veterans' Appeals.''

§ 7102. Assignment of members of Board

(a) A proceeding instituted before the Board may be assigned to an individual member of the Board or to a panel of not less than three members of the Board. A member or panel assigned a proceeding shall make a determination thereon, including any motion filed in connection therewith. The member or panel, as the case may be, shall make a report under section 7104(d) of this title on any such determination, which report shall constitute the final disposition of the proceeding by the member or panel.

(b) A proceeding may not be assigned to the Chairman as an individual member. The Chairman may participate in a proceeding assigned to a panel or in a reconsideration assigned to a panel of members.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1241, § 4002; Pub. L. 98–223, title II, § 208(c), (d), Mar. 2, 1984, 98 Stat. 44; renumbered § 7102 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 103–271, § 6(a), July 1, 1994, 108 Stat. 741.)

AMENDMENTS

1994—Pub. L. 103–271 amended section generally, substituting present provisions for provisions authorizing Chairman to divide Board into sections of three members and to assign proceedings thereto, and provisions relating to assignment where section is composed of fewer than three members, limiting annual period of service, prohibiting more than one member to be a temporary or acting member, and relating to hearing docket and report of determination.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4002 of this title as this section.

Subsec. (a)(2)(A)(ii). Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration''.

Subsec. (a)(3). Pub. L. 102–40, § 402(d)(1), substituted ''7101(c)'' for ''4001(c)''.

1984—Subsec. (a)(1). Pub. L. 98–223, § 208(d)(1), designated provision authorizing the Chairman from time to time to divide the Board into sections of three members, assign members to the Board thereto, and designated the chief thereof, as par. (1).

Subsec. (a)(2). Pub. L. 98–223, § 208(d)(2), designated provision relating to authority of the Chairman in the case where a section is composed of fewer than three members as a result of absence, vacancy, or inability of a member to serve as subpar. (A), and in subpar. (A) as so designated, inserted provision authorizing the Chairman to designate an employee of the Veterans' Administration to serve as an acting member of the Board on such section for a period of not to exceed 90 days, and added subpar. (B).

Subsec. (a)(3). Pub. L. 98–223, § 208(d)(2), added par. (3).

Subsec. (b). Pub. L. 98–223, § 208(d)(3), designated provision relating to the maintenance of a hearing docket

and the holding of formal recorded hearings upon which a final determination will be made as subsec. (b).

Pub. L. 98–223, § 208(c), struck out ''associate'' before ''member'' in two places.

Subsec. (c). Pub. L. 98–223, § 208(d)(4), designated provision relating to the section making a determination on any proceeding or motion in connection therewith assigned to the section by the Board and making a report on such determination, which report constitutes its final disposition of the proceeding, as subsec. (c).

§ 7103. Reconsideration; correction of obvious errors

(a) The decision of the Board determining a matter under section 7102 of this title is final unless the Chairman orders reconsideration of the decision in accordance with subsection (b). Such an order may be made on the Chairman's initiative or upon motion of the claimant.

(b)(1) Upon the order of the Chairman for reconsideration of the decision in a case, the case shall be referred—

(A) in the case of a matter originally heard by a single member of the Board, to a panel of not less than three members of the Board; or

(B) in the case of a matter originally heard by a panel of members of the Board, to an enlarged panel of the Board.

(2) A panel referred to in paragraph (1) may not include the member, or any member of the panel, that made the decision subject to reconsideration.

(3) A panel reconsidering a case under this subsection shall render its decision after reviewing the entire record before the Board. The decision of the panel shall be made by a majority vote of the members of the panel. The decision of the panel shall constitute the final decision of the Board.

(c) The Board on its own motion may correct an obvious error in the record, without regard to whether there has been a motion or order for reconsideration.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1241, § 4003; Pub. L. 100–687, div. A, title II, § 202(a), Nov. 18, 1988, 102 Stat. 4110; renumbered § 7103, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 103–271, § 6(a), July 1, 1994, 108 Stat. 741.)

AMENDMENTS

1994—Pub. L. 103–271 amended section generally. Prior to amendment, text read as follows:

''(a) Decisions by a section of the Board shall be made by a majority of the members of the section. The decision of the section is final unless the Chairman orders reconsideration of the case.

''(b) If the Chairman orders reconsideration in a case, the case shall upon reconsideration be heard by an expanded section of the Board. When a case is heard by an expanded section of the Board after such a motion for reconsideration, the decision of a majority of the members of the expanded section shall constitute the final decision of the Board.

''(c) Notwithstanding subsections (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record.''

1991—Pub. L. 102–40 renumbered section 4003 of this title as this section.

1988—Pub. L. 100–687, in amending section generally, added subsec. (a), struck out former subsec. (a) which provided that determination of section, when unanimous, be final determination of Board, added subsec. (b), struck out former subsec. (b) which provided that when there is disagreement among members of section, concurrence of Chairman with majority of members of section shall constitute final determination of Board, and added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Jan. 1, 1989, see section 401(d) of Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title.

§ 7104. Jurisdiction of the Board

(a) All questions in a matter which under section 511(a) of this title is subject to decision by the Secretary shall be subject to one review on appeal to the Secretary. Final decisions on such appeals shall be made by the Board. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation.

(b) Except as provided in section 5108 of this title, when a claim is disallowed by the Board, the claim may not thereafter be reopened and allowed and a claim based upon the same factual basis may not be considered.

(c) The Board shall be bound in its decisions by the regulations of the Department, instructions of the Secretary, and the precedent opinions of the chief legal officer of the Department.

(d) Each decision of the Board shall include—

(1) a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record; and

(2) an order granting appropriate relief or denying relief.

(e)(1) After reaching a decision on a case, the Board shall promptly mail a copy of its written decision to the claimant at the last known address of the claimant.

(2) If the claimant has an authorized representative, the Board shall—

(A) mail a copy of its written decision to the authorized representative at the last known address of the authorized representative; or

(B) send a copy of its written decision to the authorized representative by any means reasonably likely to provide the authorized representative with a copy of the decision within the same time a copy would be expected to reach the authorized representative if sent by first-class mail.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1241, § 4004; Pub. L. 87–97, § 1, July 20, 1961, 75 Stat. 215; Pub. L. 100–687, div. A, title I, § 101(b), title II, §§ 203(a), 204, 205, Nov. 18, 1988, 102 Stat. 4106, 4110, 4111; renumbered § 7104 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(g)(2), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), (c), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–271, §§ 7(b)(1), 8, July 1, 1994, 108 Stat. 743; Pub. L. 104–275, title V, § 509, Oct. 9, 1996, 110 Stat. 3344.)

AMENDMENTS

1996—Subsec. (e). Pub. L. 104–275 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''After reaching a decision in a case, the Board

shall promptly mail a copy of its written decision to the claimant and the claimant's authorized representative (if any) at the last known address of the claimant and at the last known address of such representative (if any).''

1994—Subsec. (a). Pub. L. 103–271, § 8, substituted ''511(a)'' for ''211(a)''.

Pub. L. 103–271, § 7(b)(1), struck out after second sentence ''The Board shall decide any such appeal only after affording the claimant an opportunity for a hearing.''

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4004 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–54 made a technical correction to Pub. L. 100–687, § 101(b). See 1988 Amendment note below.

Subsec. (b). Pub. L. 102–40, § 402(d)(1), substituted ''5108'' for ''3008''.

Subsec. (c). Pub. L. 102–83, § 4(c), substituted ''chief legal officer of the Department'' for ''chief law officer''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1988—Subsec. (a). Pub. L. 100–687, § 101(b), as amended by Pub. L. 102–54, substituted ''All questions in a matter which under section 211(a) of this title is subject to decision by the Administrator'' for ''All questions on claims involving benefits under the laws administered by the Veterans' Administration''.

Pub. L. 100–687, § 203(a), inserted at end ''The Board shall decide any such appeal only after affording the claimant an opportunity for a hearing. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation.''

Subsec. (b). Pub. L. 100–687, § 204, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''When a claim is disallowed by the Board, it may not thereafter be reopened and allowed, and no claim based upon the same factual basis shall be considered; however, where subsequent to disallowance of a claim, new and material evidence in the form of official reports from the proper service department is secured, the Board may authorize the reopening of the claim and review of the former decision.''

Subsecs. (d), (e). Pub. L. 100–687, § 205, added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: ''The decisions of the Board shall be in writing and shall contain findings of fact and conclusions of law separately stated.''

1961—Subsec. (d). Pub. L. 87–97 added subsec. (d).

EFFECTIVE DATE OF 1991 AMENDMENT

Section 14(g)(2) of Pub. L. 102–54 provided that the amendment made by that section is effective Nov. 18, 1988.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 101(b) and 204 of Pub. L. 100–687 effective Sept. 1, 1989, and amendment by sections 203(a) and 205 of Pub. L. 100–687 effective Jan. 1, 1989, see section 401(a), (d) of Pub. L. 100–687, as amended, set out as an Effective Date note under section 7251 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87–97 provided that: ''The amendment made by this Act [amending this section] shall take effect as of January 1, 1962.''

§ 7105. Filing of notice of disagreement and appeal

(a) Appellate review will be initiated by a notice of disagreement and completed by a substantive appeal after a statement of the case is furnished as prescribed in this section. Each appellant will be accorded hearing and representation rights pursuant to the provisions of this chapter and regulations of the Secretary.

(b)(1) Except in the case of simultaneously contested claims, notice of disagreement shall be filed within one year from the date of mailing of notice of the result of initial review or determination. Such notice, and appeals, must be in writing and be filed with the activity which entered the determination with which disagreement is expressed (hereinafter referred to as the ''agency of original jurisdiction''). A notice of disagreement postmarked before the expiration of the one-year period will be accepted as timely filed.

(2) Notices of disagreement, and appeals, must be in writing and may be filed by the claimant, the claimant's legal guardian, or such accredited representative, attorney, or authorized agent as may be selected by the claimant or legal guardian. Not more than one recognized organization, attorney, or agent will be recognized at any one time in the prosecution of a claim.

(c) If no notice of disagreement is filed in accordance with this chapter within the prescribed period, the action or determination shall become final and the claim will not thereafter be reopened or allowed, except as may otherwise be provided by regulations not inconsistent with this title.

(d)(1) Where the claimant, or the claimant's representative, within the time specified in this chapter, files a notice of disagreement with the decision of the agency of original jurisdiction, such agency will take such development or review action as it deems proper under the provisions of regulations not inconsistent with this title. If such action does not resolve the disagreement either by granting the benefit sought or through withdrawal of the notice of disagreement, such agency shall prepare a statement of the case. A statement of the case shall include the following:

(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

(B) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

(C) The decision on each issue and a summary of the reasons for such decision.

(2) A statement of the case, as required by this subsection, will not disclose matters that would be contrary to section 5701 of this title or otherwise contrary to the public interest. Such matters may be disclosed to a designated representative unless the relationship between the claimant and the representative is such that disclosure to the representative would be as harmful as if made to the claimant.

(3) Copies of the ''statement of the case'' prescribed in paragraph (1) of this subsection will be submitted to the claimant and to the claimant's representative, if there is one. The claimant will be afforded a period of sixty days from the date the statement of the case is mailed to file the formal appeal. This may be extended for a reasonable period on request for good cause shown. The appeal should set out specific allega-

tions of error of fact or law, such allegations related to specific items in the statement of the case. The benefits sought on appeal must be clearly identified. The agency of original jurisdiction may close the case for failure to respond after receipt of the statement of the case, but questions as to timeliness or adequacy of response shall be determined by the Board of Veterans' Appeals.

(4) The claimant in any case may not be presumed to agree with any statement of fact contained in the statement of the case to which the claimant does not specifically express agreement.

(5) The Board of Veterans' Appeals may dismiss any appeal which fails to allege specific error of fact or law in the determination being appealed.

(Added Pub. L. 87–666, § 1, Sept. 19, 1962, 76 Stat. 553, § 4005; amended Pub. L. 99–576, title VII, § 701(85), Oct. 28, 1986, 100 Stat. 3298; Pub. L. 100–687, div. A, title II, §§ 203(b), 206, Nov. 18, 1988, 102 Stat. 4111; renumbered § 7105 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (b)(1). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4005 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Subsec. (d)(2). Pub. L. 102–40, § 402(d)(1), substituted ''5701'' for ''3301''.

1988—Subsec. (d)(1). Pub. L. 100–687, § 206(a), substituted ''shall prepare a statement of the case. A statement of the case shall include the following:'' for ''will prepare a statement of the case consisting of—'', added subpars. (A) to (C), and struck out former subpars. (A) to (C) which read as follows:

''(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed;

''(B) A citation or discussion of the pertinent law, regulations, and, where applicable, the provisions of the Schedule for Rating Disabilities;

''(C) The decision on such issue or issues and a summary of the reasons therefor.''

Subsec. (d)(4). Pub. L. 100–687, § 206(b), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The appellant will be presumed to be in agreement with any statement of fact contained in the statement of the case to which no exception is taken.''

Subsec. (d)(5). Pub. L. 100–687, § 203(b), struck out ''will base its decision on the entire record and'' after ''of Veterans' Appeals''.

1986—Subsec. (b)(2). Pub. L. 99–576, § 701(85), substituted ''the claimant's'' for ''his'' and ''the claimant or legal guardian'' for ''him''.

Subsec. (d)(1), (3). Pub. L. 99–576, § 701(85)(A), substituted ''the claimant's'' for ''his''.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Jan. 1, 1989, see section 401(d) of Pub. L. 100–687 set out as an Effective Date note under section 7251 of this title.

EFFECTIVE DATE

Section 3 of Pub. L. 87–666 provided that: ''The amendments made by this Act [enacting sections 4005, 4005A, and 4006 [now 7105, 7105A, and 7106] of this title, redesignating former section 4006 as 4007 [now 7107] of this title, and repealing former sections 4005 and 4007 of this title] shall be effective January 1, 1963.''

§ 7105A. Simultaneously contested claims

(a) In simultaneously contested claims where one is allowed and one rejected, the time allowed for the filing of a notice of disagreement shall be sixty days from the date notice of the adverse action is mailed. In such cases the agency of original jurisdiction shall promptly notify all parties in interest at the last known address of the action taken, expressly inviting attention to the fact that notice of disagreement will not be entertained unless filed within the sixty-day period prescribed by this subsection.

(b) Upon the filing of a notice of disagreement, all parties in interest will be furnished with a statement of the case in the same manner as is prescribed in section 7105. The party in interest who filed a notice of disagreement will be allowed thirty days from the date of mailing of such statement of the case in which to file a formal appeal. Extension of time may be granted for good cause shown but with consideration to the interests of the other parties involved. The substance of the appeal will be communicated to the other party or parties in interest and a period of thirty days will be allowed for filing a brief or argument in answer thereto. Such notice shall be forwarded to the last known address of record of the parties concerned, and such action shall constitute sufficient evidence of notice.

(Added Pub. L. 87–666, § 1, Sept. 19, 1962, 76 Stat. 554, § 4005A; renumbered § 7105A and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 4007 of this title, prior to the general amendment of sections 4005 to 4007 by Pub. L. 87–666.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4005A of this title as this section and substituted ''7105'' for ''4005'' in subsec. (b).

EFFECTIVE DATE

Section effective Jan. 1, 1963, see section 3 of Pub. L. 87–666, set out as a note under section 7105 of this title.

§ 7106. Administrative appeals

Application for review on appeal may be made within the one-year period prescribed in section 7105 of this title by such officials of the Department as may be designated by the Secretary. An application entered under this paragraph shall not operate to deprive the claimant of the right of review on appeal as provided in this chapter.

(Added Pub. L. 87–666, § 1, Sept. 19, 1962, 76 Stat. 554, § 4006; renumbered § 7106 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in subsec. (c)(2) of former section 4005 of this title, prior to the general amendment of sections 4005 to 4007 by Pub. L. 87–666.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4006 of this title as this section and substituted ''7105'' for ''4005''.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

§ 7107. Appeals: dockets; hearings

(a)(1) Except as provided in paragraphs (2) and (3) and in subsection (f), each case received pursuant to application for review on appeal shall be considered and decided in regular order according to its place upon the docket.

(2) A case referred to in paragraph (1) may, for cause shown, be advanced on motion for earlier consideration and determination. Any such motion shall set forth succinctly the grounds upon which the motion is based. Such a motion may be granted only—

(A) if the case involves interpretation of law of general application affecting other claims;

(B) if the appellant is seriously ill or is under severe financial hardship; or

(C) for other sufficient cause shown.

(3) A case referred to in paragraph (1) may be postponed for later consideration and determination if such postponement is necessary to afford the appellant a hearing.

(b) The Board shall decide any appeal only after affording the appellant an opportunity for a hearing.

(c) A hearing docket shall be maintained and formal recorded hearings shall be held by such member or members of the Board as the Chairman may designate. Such member or members designated by the Chairman to conduct the hearing shall, except in the case of a reconsideration of a decision under section 7103 of this title, participate in making the final determination of the claim.

(d)(1) An appellant may request that a hearing before the Board be held at its principal location or at a facility of the Department located within the area served by a regional office of the Department.

(2) A hearing to be held within an area served by a regional office of the Department shall (except as provided in paragraph (3)) be scheduled to be held in accordance with the place of the case on the docket under subsection (a) relative to other cases on the docket for which hearings are scheduled to be held within that area.

(3) A hearing to be held within an area served by a regional office of the Department may, for cause shown, be advanced on motion for an earlier hearing. Any such motion shall set forth succinctly the grounds upon which the motion is based. Such a motion may be granted only—

(A) if the case involves interpretation of law of general application affecting other claims;

(B) if the appellant is seriously ill or is under severe financial hardship; or

(C) for other sufficient cause shown.

(e)(1) At the request of the Chairman, the Secretary may provide suitable facilities and equipment to the Board or other components of the Department to enable an appellant located at a facility within the area served by a regional office to participate, through voice transmission or through picture and voice transmission, by electronic or other means, in a hearing with a Board member or members sitting at the Board's principal location.

(2) When such facilities and equipment are available, the Chairman may afford the appellant an opportunity to participate in a hearing before the Board through the use of such facilities and equipment in lieu of a hearing held by personally appearing before a Board member or panel as provided in subsection (d). Any such hearing shall be conducted in the same manner as, and shall be considered the equivalent of, a personal hearing. If the appellant declines to participate in a hearing through the use of such facilities and equipment, the opportunity of the appellant to a hearing as provided in such subsection (d) shall not be affected.

(f) Nothing in this section shall preclude the screening of cases for purposes of—

(1) determining the adequacy of the record for decisional purposes; or

(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1242, § 4006; renumbered § 4007, Pub. L. 87–666, § 1, Sept. 19, 1962, 76 Stat. 553; renumbered § 7107, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 103–271, § 7(a)(1), July 1, 1994, 108 Stat. 742; Pub. L. 103–446, title III, § 303, Nov. 2, 1994, 108 Stat. 4658; Pub. L. 105–368, title X, § 1003, Nov. 11, 1998, 112 Stat. 3363.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–368, § 1003(a)(1), inserted ''in paragraphs (2) and (3) and'' after ''Except as provided''.

Subsec. (a)(2). Pub. L. 105–368, § 1003(a)(2), added second and third sentences and struck out former second sentence which read as follows: ''Any such motion shall set forth succinctly the grounds upon which it is based and may not be granted unless the case involves interpretation of law of general application affecting other claims or for other sufficient cause shown.''

Subsec. (a)(3). Pub. L. 105–368, § 1003(a)(3), added par. (3).

Subsec. (d)(2). Pub. L. 105–368, § 1003(b)(1), substituted ''in accordance with the place of the case on the docket under subsection (a) relative to other cases on the docket for which hearings are scheduled to be held within that area.'' for ''in the order in which requests for hearings within that area are received by the Department.''

Subsec. (d)(3). Pub. L. 105–368, § 1003(b)(2), added par. (3) and struck out former par. (3) which read as follows: ''In a case in which the Secretary is aware that the appellant is seriously ill or is under severe financial hardship, a hearing may be scheduled at a time earlier than would be provided for under paragraph (2).''

1994—Pub. L. 103–446 substituted ''Except as provided in subsection (f), each case'' for ''Each case'' in subsec. (a)(1) and added subsec. (f).

Pub. L. 103–271 amended section generally. Prior to amendment, text read as follows: ''All cases received pursuant to application for review on appeal shall be considered and decided in regular order according to their places upon the docket; however, for cause shown a case may be advanced on motion for earlier consideration and determination. Every such motion shall set forth succinctly the grounds upon which it is based. No such motion shall be granted except in cases involving interpretation of law of general application affecting other claims, or for other sufficient cause shown.''

1991—Pub. L. 102–40 renumbered section 4007 of this title as this section.

1962—Pub. L. 87–666 renumbered section 4006 of this title as this section.

§ 7108. Rejection of applications

An application for review on appeal shall not be entertained unless it is in conformity with this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1243, § 4008; renumbered § 7108, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4008 of this title as this section.

§ 7109. Independent medical opinions

(a) When, in the judgment of the Board, expert medical opinion, in addition to that available within the Department, is warranted by the medical complexity or controversy involved in an appeal case, the Board may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Department.

(b) The Secretary shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions at the request of the Chairman of the Board. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

(c) The Board shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Board.

(Added Pub. L. 87–671, § 1, Sept. 19, 1962, 76 Stat. 557, § 4009; amended Pub. L. 100–687, div. A, title I, § 103(b), Nov. 18, 1988, 102 Stat. 4107; renumbered § 7109, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4009 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Subsec. (a). Pub. L. 100–687, § 103(b)(1), substituted ''Board may'' for ''Board is authorized to''.

Subsec. (b). Pub. L. 100–687, § 103(b)(2), substituted ''Any such arrangement shall'' for ''Such arrangement will'', and ''an individual case shall'' for ''any individual case will''.

Subsec. (c). Pub. L. 100–687, § 103(b)(3), added subsec. (c).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Sept. 1, 1989, see section 401(a) of Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1963, see section 4 of Pub. L. 87–671, set out as an Effective Date of 1962 Amendment note under section 5701 of this title.

[§ 7110. Repealed. Pub. L. 103–271, § 7(b)(2), July 1, 1994, 108 Stat. 743]

Section, added Pub. L. 100–687, div. A, title II, § 207(a), Nov. 18, 1988, 102 Stat. 4111, § 4010; renumbered § 7110, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, authorized hearing before traveling sections of the Board.

§ 7111. Revision of decisions on grounds of clear and unmistakable error

(a) A decision by the Board is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

(b) For the purposes of authorizing benefits, a rating or other adjudicative decision of the Board that constitutes a reversal or revision of a prior decision of the Board on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Board on the Board's own motion or upon request of the claimant.

(d) A request for revision of a decision of the Board based on clear and unmistakable error may be made at any time after that decision is made.

(e) Such a request shall be submitted directly to the Board and shall be decided by the Board on the merits, without referral to any adjudicative or hearing official acting on behalf of the Secretary.

(f) A claim filed with the Secretary that requests reversal or revision of a previous Board decision due to clear and unmistakable error shall be considered to be a request to the Board under this section, and the Secretary shall promptly transmit any such request to the Board for its consideration under this section.

(Added Pub. L. 105–111, § 1(b)(1), Nov. 21, 1997, 111 Stat. 2271.)

EFFECTIVE DATE

Section applicable to any determination made before, on, or after Nov. 21, 1997, see section 1(c)(1) of Pub. L. 105–111, set out as a note under section 5109A of this title.

§ 7112. Expedited treatment of remanded claims

The Secretary shall take such actions as may be necessary to provide for the expeditious treatment by the Board of any claim that is remanded to the Secretary by the Court of Appeals for Veterans Claims.

(Added Pub. L. 108–183, title VII, § 707(b)(1), Dec. 16, 2003, 117 Stat. 2673.)

CHAPTER 72—UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

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AMENDMENTS

2001—Pub. L. 107–103, title VI, §§604(c)(2), 605(b), Dec. 27, 2001, 115 Stat. 1000, substituted ''Practice and registration fees'' for ''Practice fee'' in item 7285 and added item 7287.

1999—Pub. L. 106–117, title X, §§1021(b), 1024(b), Nov. 30, 1999, 113 Stat. 1592, 1594, added items 7257 and 7299.

1998—Pub. L. 105–368, title V, §512(a)(3), (4)(A), Nov. 11, 1998, 112 Stat. 3341, substituted ''APPEALS FOR VETERANS CLAIMS'' for ''VETERANS APPEALS'' in chapter heading, struck out ''of Veterans Appeals'' after ''Court'' in item 7286, substituted ''Court decision'' for ''United States Court of Veterans Appeals decision'' in item 7291, and struck out ''Court of Veterans Appeals'' before ''Retirement Fund'' in item 7298.

1991—Pub. L. 102–82, §2(b), Aug. 6, 1991, 105 Stat. 375, added item 7286.

Pub. L. 102–40, title IV, §402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 4051 to 4098 as 7251 to 7298, respectively.

1989—Pub. L. 101–94, title I, §101(b), Aug. 16, 1989, 103 Stat. 625, added subchapter V heading and items 4096 to 4098.

SUBCHAPTER I—ORGANIZATION AND JURISDICTION

§ 7251. Status

There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Appeals for Veterans Claims.

(Added Pub. L. 100–687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4113, §4051; renumbered §7251, Pub. L. 102–40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, §511(b), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4051 of this title as this section.

CHANGE OF NAME

Pub. L. 105–368, title V, §511(a), Nov. 11, 1998, 112 Stat. 3341, provided that: ''The United States Court of Veterans Appeals is hereby renamed as, and shall hereafter be known and designated as, the United States Court of Appeals for Veterans Claims.''

Pub. L. 105–368, title V, §512(c), Nov. 11, 1998, 112 Stat. 3342, provided that: ''Any reference in a law, regulation, document, paper, or other record of the United States to the United States Court of Veterans Appeals shall be deemed to be a reference to the United States Court of Appeals for Veterans Claims.''

EFFECTIVE DATE OF 2001 AMENDMENT; CONSTRUCTION

Pub. L. 107–103, title VI, §603(c), (d), Dec. 27, 2001, 115 Stat. 999, provided that:

''(c) CONSTRUCTION.—The repeal in subsection (a) [repealing section 402 of Pub. L. 100–687, formerly set out as a note below] may not be construed to confer upon the United States Court of Appeals for Veterans Claims jurisdiction over any appeal or other matter not within the jurisdiction of the Court as provided in section 7266(a) of title 38, United States Code.

''(d) APPLICABILITY.—The repeals made by subsections (a) and (b) [repealing section 402 of Pub. L. 100–687, formerly set out as a note below, and section 403 of Pub. L. 100–687, formerly set out as a note under section 5904 of this title] shall apply to any appeal filed with the United States Court of Appeals for Veterans Claims—

''(1) on or after the date of the enactment of this Act [Dec. 27, 2001]; or

''(2) before the date of the enactment of this Act but in which a final decision has not been made under section 7291 of title 38, United States Code, as of that date.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title V, §513, Nov. 11, 1998, 112 Stat. 3342, provided that: ''This subtitle [subtitle B (§§511–513) of title V of Pub. L. 105–368, see Tables for classification], and the amendments made by this subtitle, shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act [Nov. 11, 1998].''

EFFECTIVE DATE

Section 401 of Pub. L. 100–687, as amended by Pub. L. 101–94, title III, §301, Aug. 16, 1989, 103 Stat. 628, provided that:

''(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, this division (and the amendments made by this Act) [div. A (§§1–403) of Pub. L. 100–687, known as the 'Veterans' Judicial Review Act', see Tables for classification] shall take effect on September 1, 1989.

''(b) EFFECTIVE DATE FOR CERTAIN TRANSITION PROVISIONS.—The amendment made by section 201(a) [amending section 4001 [now 7101] of this title] shall take effect on February 1, 1989.

''(c) DATE OF ENACTMENT.—Sections 201 (other than subsection (a)), 208, 209, 302, and 303, and the amendments made by those sections [see Tables for classification], shall take effect on the date of the enactment of this Act [Nov. 18, 1988].

''(d) BOARD OF VETERANS' APPEALS.—Sections 202, 203, 205, 206, and 207 [see Tables for classification] shall take effect as of January 1, 1989. Section 204 [amending section 4004 [now 7104] of this title] shall take effect on September 1, 1989.

''(e) COMMENCEMENT OF OPERATION OF COURT OF VETERANS APPEALS.—Notwithstanding subsection (a), the United States Court of Veterans Appeals [now United States Court of Appeals for Veterans Claims] established pursuant to chapter 72 of title 38, United States Code (as added by section 301) shall not begin to oper-

ate until at least three judges have been appointed to the court.''

CHAPTER APPLICABLE TO CLAIMS ALLEGING PREVIOUS DETERMINATION THE PRODUCT OF CLEAR AND UNMISTAKABLE ERROR

Pub. L. 105–111, §1(c)(2), Nov. 21, 1997, 111 Stat. 2272, provided that: ''Notwithstanding section 402 of the Veterans Judicial Review Act (38 U.S.C. 7251 note), chapter 72 of title 38, United States Code, shall apply with respect to any decision of the Board of Veterans' Appeals on a claim alleging that a previous determination of the Board was the product of clear and unmistakable error if that claim is filed after, or was pending before the Department of Veterans Affairs, the Court of Veterans Appeals [now Court of Appeals for Veterans Claims], the Court of Appeals for the Federal Circuit, or the Supreme Court on the date of the enactment of this Act [Nov. 21, 1997].''

CHAPTER APPLICABLE TO CASES FILED ON OR AFTER NOVEMBER 18, 1988

Section 402 of Pub. L. 100–687, as amended by Pub. L. 102–40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239, which provided that this chapter applied to any case in which a notice of disagreement was filed under section 7105 of this title on or after Nov. 18, 1988, was repealed by Pub. L. 107–103, title VI, §603(a), Dec. 27, 2001, 115 Stat. 999.

§ 7252. Jurisdiction; finality of decisions

(a) The Court of Appeals for Veterans Claims shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Secretary may not seek review of any such decision. The Court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

(b) Review in the Court shall be on the record of proceedings before the Secretary and the Board. The extent of the review shall be limited to the scope provided in section 7261 of this title. The Court may not review the schedule of ratings for disabilities adopted under section 1155 of this title or any action of the Secretary in adopting or revising that schedule.

(c) Decisions by the Court are subject to review as provided in section 7292 of this title.

(Added Pub. L. 100–687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4113, §4052; renumbered §7252 and amended Pub. L. 102–40, title IV, §402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, §14(e)(3), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, §§4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 105–368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40, §402(b)(1), renumbered section 4052 of this title as this section.

Subsec. (a). Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–54 amended subsec. (a) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''Court'' for ''court'' in last sentence.

Subsec. (b). Pub. L. 102–83, §5(c)(1), substituted ''1155'' for ''355''.

Pub. L. 102–83, §4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–40, §402(d)(1), substituted ''7261'' for ''4061''.

Subsec. (c). Pub. L. 102–40, §402(d)(1), substituted ''7292'' for ''4092''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7253. Composition

(a) COMPOSITION.—The Court of Appeals for Veterans Claims is composed of at least three and not more than seven judges, one of whom shall serve as chief judge in accordance with subsection (d).

(b) APPOINTMENT.—The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

(c) TERM OF OFFICE.—The term of office of the judges of the Court of Appeals for Veterans Claims shall be 15 years. A judge who is nominated by the President for appointment to an additional term on the Court without a break in service and whose term of office expires while that nomination is pending before the Senate may continue in office for up to 1 year while that nomination is pending.

(d) CHIEF JUDGE.—(1) The chief judge of the Court is the head of the Court. The chief judge of the Court shall be the judge of the Court in regular active service who is senior in commission among the judges of the Court who—

(A) have served for one or more years as judges of the Court; and

(B) have not previously served as chief judge.

(2) In any case in which there is no judge of the Court in regular active service who has served as a judge of the Court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

(3) Except as provided in paragraph (4), a judge of the Court shall serve as the chief judge under paragraph (1) for a term of five years or until the judge becomes age 70, whichever occurs first. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, that judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

(4)(A) The term of a chief judge shall be terminated before the end of the term prescribed by paragraph (3) if—

(i) the chief judge leaves regular active service as a judge of the Court; or

(ii) the chief judge notifies the other judges of the Court in writing that such judge desires to be relieved of the duties of chief judge.

(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

(5) If a chief judge is temporarily unable to perform the duties of chief judge, those duties shall be performed by the judge of the court[1] in active service who is present, able and qualified to act, and is next in precedence.

(6) Judges who have the same seniority in commission shall be eligible for service as chief judge in accordance with their relative precedence.

(e) SALARY.—Each judge of the Court shall receive a salary at the same rate as is received by judges of the United States district courts.

(f) REMOVAL.—(1) A judge of the Court may be removed from office by the President on grounds of misconduct, neglect of duty, or engaging in the practice of law. A judge of the Court may not be removed from office by the President on any other ground.

(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

(g) RULES.—(1) The Court shall prescribe rules, consistent with the provisions of chapter 16 of title 28, establishing procedures for the filing of complaints with respect to the conduct of any judge of the Court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, the Court shall have the powers granted to a judicial council under such chapter.

(2) The provisions of sections 354(b) through 360 of title 28, regarding referral or certification to, and petition for review in, the Judicial Conference of the United States and action thereon, shall apply to the exercise by the Court of the powers of a judicial council under paragraph (1) of this subsection. The grounds for removal from office specified in subsection (f)(1) shall provide a basis for a determination pursuant to section 354(b) or 355 of title 28, and certification and transmittal by the Conference shall be made to the President for consideration under subsection (f).

(3)(A) In conducting hearings pursuant to paragraph (1), the Court may exercise the authority provided under section 1821 of title 28 to pay the fees and allowances described in that section.

(B) The Court shall have the power provided under section 361 of title 28 to award reimbursement for the reasonable expenses described in that section. Reimbursements under this subparagraph shall be made from funds appropriated to the Court.

(h) TEMPORARY EXPANSION OF COURT.—(1) During the period from January 1, 2002, through August 15, 2005, the authorized number of judges of the Court specified in subsection (a) is increased by two.

(2)(A) Of the two additional judges authorized by this subsection—

(i) only one may be appointed pursuant to a nomination made in 2002; and

(ii) only one may be appointed pursuant to a nomination made in 2003.

(B) If a judge is not appointed under this subsection pursuant to a nomination made in 2002, a judge may be appointed under this subsection pursuant to a nomination made in 2004. If a judge is not appointed under this subsection pursuant to a nomination made in 2003, a judge may be appointed under this subsection pursuant to a nomination made in 2004. In either case, such an appointment may be made only pursuant to a nomination made before October 1, 2004.

(3) The term of office and the eligibility for retirement of a judge appointed under this subsection, other than a judge described in paragraph (4), are governed by the provisions of section 1012 of the Court of Appeals for Veterans Claims Amendments of 1999 (title X of Public Law 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the judge is one of the first two judges appointed to the Court after November 30, 1999.

(4) A judge of the Court as of December 27, 2001, who was appointed to the Court before January 1, 1991, may accept appointment as a judge of the Court under this subsection notwithstanding that the term of office of the judge on the Court has not yet expired under this section. The term of office of an incumbent judge who receives an appointment as described in the preceding sentence shall be 15 years, which includes any period remaining in the unexpired term of the judge. Any service following an appointment under this subsection shall be treated as though served as part of the original term of office of that judge on the Court.

(5) Notwithstanding paragraph (1), an appointment may not be made to the Court if the appointment would result in there being more than seven judges on the Court who were appointed after January 1, 1997. For the purposes of this paragraph, a judge serving in recall status under section 7257 of this title shall be disregarded in counting the number of judges appointed to the Court after such date.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4114, § 4053; amended Pub. L. 101–94, title I, § 102(c), Aug. 16, 1989, 103 Stat. 626; renumbered § 7253, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–82, § 3, Aug. 6, 1991, 105 Stat. 375; Pub. L. 102–585, title VIII, § 801, Nov. 4, 1992, 106 Stat. 4980; Pub. L. 105–368, title V, §§ 501, 512(a)(1), Nov. 11, 1998, 112 Stat. 3340, 3341; Pub. L. 106–117, title X, §§ 1031, 1032(a), 1033, Nov. 30, 1999, 113 Stat. 1594, 1595; Pub. L. 107–103, title VI, § 601, Dec. 27, 2001, 115 Stat. 998; Pub. L. 107–273, div. C, title I, § 11043(f), Nov. 2, 2002, 116 Stat. 1856; Pub. L. 108–454, title VIII, § 802, Dec. 10, 2004, 118 Stat. 3625.)

AMENDMENTS

2004—Subsec. (d)(1). Pub. L. 108–454, § 802(a), inserted "The chief judge of the Court is the head of the Court." after "(1)".

Subsec. (d)(4)(A). Pub. L. 108–454, § 802(b), substituted "Court" for "court" in cls. (i) and (ii).

Subsec. (h)(4). Pub. L. 108–454, § 802(c), substituted "December 27, 2001," for "the date of the enactment of this subsection".

2002—Subsec. (g)(1). Pub. L. 107–273, § 11043(f)(1), substituted "chapter 16" for "section 372(c)" and "such chapter" for "such section".

Subsec. (g)(2). Pub. L. 107–273, § 11043(f)(2), substituted "sections 354(b) through 360" for "paragraphs (7) through (15) of section 372(c)" and "section 354(b) or 355" for "paragraph (7) or (8) of section 372(c)".

[1] So in original. Probably should be capitalized.

Subsec. (g)(3)(B). Pub. L. 107–273, § 11043(f)(3), substituted ''361'' for ''372(c)(16)''.

2001—Subsecs. (b), (c), (f), (g). Pub. L. 107–103, § 601(b), inserted subsec. headings.

Subsec. (h). Pub. L. 107–103, § 601(a), added subsec. (h).

1999—Subsec. (a). Pub. L. 106–117, § 1031, inserted heading and amended text of subsec. (a) generally. Prior to amendment, text read as follows: ''The Court of Appeals for Veterans Claims shall be composed of a chief judge and at least two and not more than six associate judges.''

Subsec. (d). Pub. L. 106–117, § 1032(a), inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: ''The chief judge is the head of the Court''.

Subsec. (e). Pub. L. 106–117, § 1033, inserted heading and amended text of subsec. (e) generally. Prior to amendment, text read as follows:

''(e)(1) The chief judge of the Court shall receive a salary at the same rate as is received by judges of the United States Courts of Appeals.

''(2) Each judge of the Court, other than the chief judge, shall receive a salary at the same rate as is received by judges of the United States district courts.''

1998—Subsec. (a). Pub. L. 105–368, § 512(a)(1), substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

Subsec. (c). Pub. L. 105–368, § 512(a)(1), substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

Pub. L. 105–368, § 501, inserted at end ''A judge who is nominated by the President for appointment to an additional term on the Court without a break in service and whose term of office expires while that nomination is pending before the Senate may continue in office for up to 1 year while that nomination is pending.''

1992—Subsec. (g). Pub. L. 102–585 designated existing provisions as par. (1) and added pars. (2) and (3).

1991—Pub. L. 102–40 renumbered section 4053 of this title as this section.

Subsec. (g). Pub. L. 102–82 added subsec. (g).

1989—Subsec. (f)(1). Pub. L. 101–94 inserted ''or'' before ''engaging'' and substituted ''law'' for ''law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties''.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–117, title X, § 1036, Nov. 30, 1999, 113 Stat. 1595, provided that:

''(a) EFFECTIVE DATE.—The amendments made by this subtitle [subtitle C (§§ 1031–1036) of title X of Pub. L. 106–117, amending this section and sections 7254, 7281, 7296, and 7297 of this title] shall take effect on the date of the enactment of this Act [Nov. 30, 1999].

''(b) SAVINGS PROVISION FOR INCUMBENT CHIEF JUDGE.—The amendments made by this subtitle shall not apply while the individual who is chief judge of the Court [United States Court of Appeals for Veterans Claims] on the date of the enactment of this Act [Nov. 30, 1999] continues to serve as chief judge. If that individual, upon termination of service as chief judge, provides notice under section 7257 of title 38, United States Code, of availability for service in a recalled status, the rate of pay applicable to that individual under section 7296(c)(1)(A) of such title while serving in a recalled status shall be at the rate of pay applicable to that individual at the time of retirement, if greater than the rate otherwise applicable under that section.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 512(a)(1) of Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS

Section 302 of Pub. L. 100–687 prohibited President from appointing associate judges of the United States Court of Veterans Appeals under subsec. (b) of this section, until the chief judge of such Court has been appointed and that judges could be appointed after Feb. 1, 1989.

§ 7254. Organization

(a) The Court of Appeals for Veterans Claims shall have a seal which shall be judicially noticed.

(b) The Court may hear cases by judges sitting alone or in panels, as determined pursuant to procedures established by the Court. Any such panel shall have not less than three judges. The Court shall establish procedures for the assignment of the judges of the Court to such panels and for the designation of the chief of each such panel.

(c)(1) A majority of the judges of the Court shall constitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

(d) PRECEDENCE OF JUDGES.—The chief judge of the Court shall have precedence and preside at any session that the chief judge attends. The other judges shall have precedence and preside according to the seniority of their original commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(e) Judges of the Court shall have the authority to administer oaths.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4114, § 4054; amended Pub. L. 101–94, title IV, § 402, Aug. 16, 1989, 103 Stat. 628; Pub. L. 101–237, title VI, § 602(b), Dec. 18, 1989, 103 Stat. 2095; renumbered § 7254, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(e)(4), June 13, 1991, 105 Stat. 287; Pub. L. 102–82, § 8(3), Aug. 6, 1991, 105 Stat. 377; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 106–117, title X, § 1034, Nov. 30, 1999, 113 Stat. 1595.)

AMENDMENTS

1999—Subsec. (d). Pub. L. 106–117 inserted heading and amended text of subsec. (d) generally. Prior to amendment, text read as follows: ''In the event of a vacancy in the position of chief judge of the Court, the associate judge senior in service on the Court shall serve as acting chief judge unless the President designates one of the other associate judges to serve as acting chief judge, in which case the judge so designated shall serve as acting chief judge.''

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4054 of this title as this section.

Subsecs. (d), (e). Pub. L. 102–54 amended section as in effect immediately before the enactment of Pub. L. 102–40, and Pub. L. 102–82 amended section, identically, by redesignating the second subsec. (d), relating to authority to administer oaths as, (e).

1989—Subsec. (d). Pub. L. 101–237 added subsec. (d) relating to authority to administer oaths.

Pub. L. 101–94 added subsec. (d) relating to acting chief judge in event of vacancy.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–117 effective Nov. 30, 1999, with savings provision for incumbent chief judge, see section 1036 of Pub. L. 106–117, set out as a note under section 7253 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7255. Offices

The principal office of the Court of Appeals for Veterans Claims shall be in the Washington, D.C., metropolitan area, but the Court may sit at any place within the United States.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4114, § 4055; renumbered § 7255, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 108–454, title VIII, § 801, Dec. 10, 2004, 118 Stat. 3625.)

AMENDMENTS

2004—Pub. L. 108–454 substituted ''Washington, D.C., metropolitan area'' for ''District of Columbia''.

1998—Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4055 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

FACILITIES FOR COURT OF APPEALS FOR VETERANS CLAIMS

Pub. L. 101–94, title II, § 201, Aug. 16, 1989, 103 Stat. 626, as amended by Pub. L. 105–368, title V, § 512(c), Nov. 11, 1998, 112 Stat. 3342, provided that:

''(a) SPACE IN THE DISTRICT OF COLUMBIA.—The Administrator of General Services shall provide suitable building space in the District of Columbia for the United States Court of Appeals for Veterans Claims as the Court's principal place of business. The Administrator shall, if necessary, arrange for temporary space for the Court if permanent space is not immediately available for the Court. The Administrator shall place a high priority on the provision of such temporary and permanent space for the Court.

''(b) APPROVAL BY COURT.—Any space to be provided for the Court of Appeals for Veterans Claims under subsection (a) must be acceptable to the Court.

''(c) ADDITIONAL REQUIREMENT.—Any building space provided to the Court under subsection (a) shall be adjacent to additional building space (in an amount acceptable to the Court) that can be made available to the Court in the future if needed for expansion of the facilities of the Court.''

Section 303 of Pub. L. 100–687 provided for the initial location of the principal office of the Court of Veterans Appeals.

§ 7256. Times and places of sessions

The times and places of sessions of the Court of Appeals for Veterans Claims shall be prescribed by the chief judge.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4115, § 4056; renumbered § 7256, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4056 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7257. Recall of retired judges

(a)(1) A retired judge of the Court may be recalled for further service on the Court in accordance with this section. To be eligible to be recalled for such service, a retired judge must at the time of the judge's retirement provide to the chief judge of the Court (or, in the case of the chief judge, to the clerk of the Court) notice in writing that the retired judge is available for further service on the Court in accordance with this section and is willing to be recalled under this section. Such a notice provided by a retired judge is irrevocable.

(2) For the purposes of this section—

(A) a retired judge is a judge of the Court of Appeals for Veterans Claims who retires from the Court under section 7296 of this title or under chapter 83 or 84 of title 5; and

(B) a recall-eligible retired judge is a retired judge who has provided a notice under paragraph (1).

(b)(1) The chief judge may recall for further service on the Court a recall-eligible retired judge in accordance with this section. Such a recall shall be made upon written certification by the chief judge that substantial service is expected to be performed by the retired judge for such period, not to exceed 90 days (or the equivalent), as determined by the chief judge to be necessary to meet the needs of the Court.

(2) A recall-eligible retired judge may not be recalled for more than 90 days (or the equivalent) during any calendar year without the judge's consent or for more than a total of 180 days (or the equivalent) during any calendar year.

(3) If a recall-eligible retired judge is recalled by the chief judge in accordance with this section and (other than in the case of a judge who has previously during that calendar year served at least 90 days (or the equivalent) of recalled service on the court) declines (other than by reason of disability) to perform the service to which recalled, the chief judge shall remove that retired judge from the status of a recall-eligible judge.

(4) A recall-eligible retired judge who becomes permanently disabled and as a result of that disability is unable to perform further service on the Court shall be removed from the status of a recall-eligible judge. Determination of such a disability shall be made pursuant to section 7253(g) or 7296(g) of this title.

(c) A retired judge who is recalled under this section may exercise all of the judicial powers

and duties of the office of a judge in active service.

(d)(1) The pay of a recall-eligible retired judge who retired under section 7296 of this title is specified in subsection (c) of that section.

(2) A judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be paid, during the period for which the judge serves in recall status, pay at the rate of pay in effect under section 7253(e) of this title for a judge performing active service, less the amount of the judge's annuity under the applicable provisions of chapter 83 or 84 of title 5.

(e)(1) Except as provided in subsection (d), a judge who is recalled under this section who retired under chapter 83 or 84 of title 5 shall be considered to be a reemployed annuitant under that chapter.

(2) Nothing in this section affects the right of a judge who retired under chapter 83 or 84 of title 5 to serve as a reemployed annuitant in accordance with the provisions of title 5.

(Added Pub. L. 106–117, title X, § 1021(a), Nov. 30, 1999, 113 Stat. 1590.)

SUBCHAPTER II—PROCEDURE

§ 7261. Scope of review

(a) In any action brought under this chapter, the Court of Appeals for Veterans Claims, to the extent necessary to its decision and when presented, shall—

(1) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Secretary;

(2) compel action of the Secretary unlawfully withheld or unreasonably delayed;

(3) hold unlawful and set aside decisions, findings (other than those described in clause (4) of this subsection), conclusions, rules, and regulations issued or adopted by the Secretary, the Board of Veterans' Appeals, or the Chairman of the Board found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

(D) without observance of procedure required by law; and

(4) in the case of a finding of material fact adverse to the claimant made in reaching a decision in a case before the Department with respect to benefits under laws administered by the Secretary, hold unlawful and set aside or reverse such finding if the finding is clearly erroneous.

(b) In making the determinations under subsection (a), the Court shall review the record of proceedings before the Secretary and the Board of Veterans' Appeals pursuant to section 7252(b) of this title and shall—

(1) take due account of the Secretary's application of section 5107(b) of this title; and

(2) take due account of the rule of prejudicial error.

(c) In no event shall findings of fact made by the Secretary or the Board of Veterans' Appeals be subject to trial de novo by the Court.

(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of the party to comply with any applicable regulation prescribed by the Secretary, the Court shall review only questions raised as to compliance with and the validity of the regulation.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4115, § 4061; amended Pub. L. 101–237, title VI, § 602(c), Dec. 18, 1989, 103 Stat. 2095; renumbered § 7261, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(e)(3), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107–330, title IV, § 401(a), (b), Dec. 6, 2002, 116 Stat. 2832.)

AMENDMENTS

2002—Subsec. (a)(4). Pub. L. 107–330, § 401(a), inserted "adverse to the claimant" after "material fact" and "or reverse" after "and set aside".

Subsec. (b). Pub. L. 107–330, § 401(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "In making the determinations under subsection (a) of this section, the Court shall take due account of the rule of prejudicial error."

1998—Subsec. (a). Pub. L. 105–368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals" in introductory provisions.

1991—Pub. L. 102–40 renumbered section 4061 of this title as this section.

Subsec. (a)(1) to (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (a)(4). Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Pub. L. 102–83, § 4(a)(1), substituted "administered by the Secretary" for "administered by the Veterans' Administration".

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Pub. L. 102–54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102–40 by substituting "Court" for "court".

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1989—Subsec. (a)(2). Pub. L. 101–237 inserted "or unreasonably delayed" after "withheld".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title IV, § 401(c), Dec. 6, 2002, 116 Stat. 2832, provided that:

"(1) Except as provided in paragraph (2), the amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 6, 2002].

"(2) The amendments made by this section shall apply with respect to any case pending for decision before the United States Court of Appeals for Veterans Claims other than a case in which a decision has been entered before the date of the enactment of this Act."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7262. Fee for filing appeals

(a) The Court of Appeals for Veterans Claims may impose a fee of not more than $50 for the

filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

(b) The Court may from time to time adjust the maximum amount permitted for a fee imposed under subsection (a) of this section based upon inflation and similar fees charged by other courts established under Article I of the Constitution.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4115, § 4062; renumbered § 7262, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4062 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7263. Representation of parties; fee agreements

(a) The Secretary shall be represented before the Court of Appeals for Veterans Claims by the General Counsel of the Department.

(b) Representation of appellants shall be in accordance with the rules of practice prescribed by the Court under section 7264 of this title. In addition to members of the bar admitted to practice before the Court in accordance with such rules of practice, the Court may allow other persons to practice before the Court who meet standards of proficiency prescribed in such rules of practice.

(c) A person who represents an appellant before the Court shall file a copy of any fee agreement between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

(d) In reviewing a fee agreement under subsection (c) of this section or under section 5904(c)(2) of this title, the Court may affirm the finding or order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4116, § 4063; renumbered § 7263 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4063 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–40, § 402(d)(1), substituted ''7264'' for ''4064''.

Subsec. (d). Pub. L. 102–40, § 402(d)(1), substituted ''5904(c)(2)'' for ''3404(c)(2)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7264. Rules of practice and procedure

(a) The proceedings of the Court of Appeals for Veterans Claims shall be conducted in accordance with such rules of practice and procedure as the Court prescribes.

(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the appellant on the notice of appeal filed under section 7266 of this title.

(c) Section 455 of title 28 shall apply to judges and proceedings of the Court.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4116, § 4064; renumbered § 7264 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–82, § 4, Aug. 6, 1991, 105 Stat. 376; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4064 of this title as this section.

Subsec. (b). Pub. L. 102–40, § 402(d)(1), substituted ''7266'' for ''4066''.

Subsec. (c). Pub. L. 102–82 added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

INTERIM RULES OF COURT OF VETERANS APPEALS

Pub. L. 101–94, title II, § 203, Aug. 16, 1989, 103 Stat. 627, provided that the Federal Rules of Appellate Procedure (28 U.S.C. App.) would be interim rules of United States Court of Veterans Appeals unless otherwise provided by the Court in accordance with this chapter, and if there was a conflict between a provision of Federal Rules of Appellate Procedure and procedures set forth in this chapter, procedures set forth in this chapter would apply.

§ 7265. Contempt authority; assistance to the Court

(a) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) misbehavior of any of its officers in their official transactions; or

(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

(b) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4116, § 4065; renumbered § 7265, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4065 of this title as this section.

§ 7266. Notice of appeal

(a) In order to obtain review by the Court of Appeals for Veterans Claims of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

(b) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

(c) A notice of appeal shall be deemed to be received by the Court as follows:

(1) On the date of receipt by the Court, if the notice is delivered.

(2) On the date of the United States Postal Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

(d) For a notice of appeal mailed to the Court to be deemed to be received under subsection (c)(2) on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4116, § 4066; renumbered § 7266 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–446, title V, § 511(a), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107–103, title V, § 507, Dec. 27, 2001, 115 Stat. 997.)

AMENDMENTS

2001—Pub. L. 107–103 struck out "(1)" before "In order to", redesignated par. (2) of subsec. (a) as subsec. (b), redesignated par. (3) of subsec. (a) as subsec. (c) and subpars. (A) and (B) thereof as pars. (1) and (2), respectively, redesignated par. (4) of subsec. (a) as subsec. (d) and substituted "subsection (c)(2)" for "paragraph (3)(B)", and struck out former subsec. (b) which read as follows: "The appellant shall also furnish the Secretary with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section."

1998—Subsec. (a)(1). Pub. L. 105–368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals".

1994—Subsec. (a). Pub. L. 103–446 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by that action must file a notice of appeal with the Court. Any such notice must be filed within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title."

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4066 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 402(d)(1), substituted "7104(e)" for "4004(e)".

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 511(b) of Pub. L. 103–446 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 2, 1994] and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals [now United States Court of Appeals for Veterans Claims] on or after that date."

INTERIM PROVISION FOR FILING NOTICES OF APPEAL

Pub. L. 101–94, title II, § 202, Aug. 16, 1989, 103 Stat. 626, provided that in the case of a person adversely affected by a final decision of the Board of Veterans' Appeals that was made before the date on which the United States Court of Veterans Appeals published in the Federal Register a notice by the Court that it had commenced operations, the period prescribed under this section within which a notice of appeal had to be filed with the Court was to be extended to the end of the 30-day period beginning on the date such notice was published, if the end of that period was later than the date that would otherwise be applicable under this section.

§ 7267. Decisions

(a) A decision upon a proceeding before the Court of Appeals for Veterans Claims shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court.

(b) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection with such a proceeding, that is assigned to the judge or panel. The judge or panel shall make a report of any such determination which constitutes the judge or panel's final disposition of the proceeding.

(c) The Court shall designate in its decision in any case those specific records of the Government on which it relied (if any) in making its decision. The Secretary shall preserve records so designated for not less than the period of time designated by the Archivist of the United States.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4117, § 4067; renumbered § 7267, Pub. L. 102–40, title IV, § 402(b)(1), May 7,

1991, 105 Stat. 238; amended Pub. L. 102–82, §§1, 8(1), Aug. 6, 1991, 105 Stat. 375, 377; Pub. L. 102–83, §4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105–368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4067 of this title as this section.

Subsec. (a). Pub. L. 102–82, §1(3), struck out before period at end ''except as provided in subsection (d) of this section''.

Subsec. (b). Pub. L. 102–82, §1(1), (2), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The Court shall include in its decision a statement of its conclusions of law and determinations as to factual matters.''

Subsec. (c). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–82, §8(1), substituted ''Archivist of the United States'' for ''Administrator of the National Archives and Records Administration''.

Pub. L. 102–82, §1(2), redesignated subsec. (e) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 102–82, §1(1), struck out subsec. (d) which read as follows:

''(1) In the case of a proceeding determined by a single judge of the Court, the decision of the judge shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the judge the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by a panel of the Court. In such a case, the decision of the judge initially deciding the case shall not be a part of the record.

''(2) In the case of a proceeding determined by a panel of the Court, the decision of the panel shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the panel the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by an expanded panel of the Court (or the Court en banc). In such a case, the decision of the panel initially deciding the case shall not be a part of the record.''

Subsec. (e). Pub. L. 102–82, §1(2), redesignated subsec. (e) as (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7268. Availability of proceedings

(a) Except as provided in subsection (b) of this section, all decisions of the Court of Appeals for Veterans Claims and all briefs, motions, documents, and exhibits received by the Court (including a transcript of the stenographic report of the hearings) shall be public records open to the inspection of the public.

(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court.

(2) After the decision of the Court in a proceeding becomes final, the Court may, upon motion of the appellant or the Secretary, permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, submitted to the Court or the Court may, on its own motion, make such other disposition thereof as it considers advisable.

(Added Pub. L. 100–687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4117, §4068; renumbered §7268, Pub. L. 102–40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–82, §8(2), Aug. 6, 1991, 105 Stat. 377; Pub. L. 105–368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4068 of this title as this section.

Subsec. (b)(2). Pub. L. 102–82 substituted ''may, upon motion of the appellant or the Secretary,'' for ''shall'' and ''or the Court'' for ''before the Court''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7269. Publication of decisions

(a) The Court of Appeals for Veterans Claims shall provide for the publication of decisions of the Court in such form and manner as may be best adapted for public information and use. The Court may make such exceptions, or may authorize the chief judge to make such exceptions, to the requirement for publication in the preceding sentence as may be appropriate.

(b) Such authorized publication shall be competent evidence of the decisions of the Court of Appeals for Veterans Claims therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

(c) Such publications shall be subject to sale in the same manner and upon the same terms as other public documents.

(Added Pub. L. 100–687, div. A, title III, §301(a), Nov. 18, 1988, 102 Stat. 4118, §4069; renumbered §7269, Pub. L. 102–40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, §512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsecs. (a), (b). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4069 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§ 7281. Employees

(a) The Court of Appeals for Veterans Claims may appoint a clerk without regard to the provisions of title 5 governing appointments in the competitive service. The clerk shall serve at the pleasure of the Court.

(b) The judges of the Court may appoint law clerks and secretaries, in such numbers as the Court may approve, without regard to the provisions of title 5 governing appointments in the competitive service. Any such law clerk or secretary shall serve at the pleasure of the appointing judge.

(c) The clerk, with the approval of the Court, may appoint necessary deputies and employees without regard to the provisions of title 5 governing appointments in the competitive service.

(d) The Court may fix and adjust the rates of basic pay for the clerk and other employees of the Court without regard to the provisions of chapter 51, subchapter III of chapter 53, or section 5373 of title 5. To the maximum extent feasible, the Court shall compensate employees at rates consistent with those for employees holding comparable positions in the judicial branch.

(e) In making appointments under subsections (a) through (c) of this section, preference shall be given, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of title 5).

(f) The Court may procure the services of experts and consultants under section 3109 of title 5.

(g) The chief judge of the Court may exercise the authority of the Court under this section whenever there are not at least two other judges of the Court.

(h) The Court shall not be considered to be an agency within the meaning of section 3132(a)(1) of title 5.

(i) The Court may accept and utilize voluntary services and uncompensated (gratuitous) services, including services as authorized by section 3102(b) of title 5 and may accept, hold, administer, and utilize gifts and bequests of personal property for the purposes of aiding or facilitating the work of the Court. Gifts or bequests of money to the Court shall be covered into the Treasury.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4118, § 4081; amended Pub. L. 101–94, title II, § 204(a), Aug. 16, 1989, 103 Stat. 627; renumbered § 7281, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–82, § 7, Aug. 6, 1991, 105 Stat. 377; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 106–117, title X, § 1035(1), Nov. 30, 1999, 113 Stat. 1595.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsecs. (a) to (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

1999—Subsec. (g). Pub. L. 106–117 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''The Chief Judge of the Court may exercise the authority of the Court under this section whenever there are not at least two associate judges of the Court.''

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4081 of this title as this section.

Subsec. (i). Pub. L. 102–82 added subsec. (i).

1989—Pub. L. 101–94 amended section generally. Prior to amendment, section read as follows: ''The Court of Veterans Appeals may appoint such employees as may be necessary to execute the functions vested in the Court. Such appointments shall be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the Court may classify such positions based upon the classification of comparable positions in the judicial branch. The basic pay of such employees shall be fixed in accordance with subchapter III of chapter 53 of title 5.''

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–117 effective Nov. 30, 1999, with savings provision for incumbent chief judge, see section 1036 of Pub. L. 106–117, set out as a note under section 7253 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 204(c) of Pub. L. 101–94 provided that: ''Notwithstanding section 401 of the Veterans' Judicial Review Act [Pub. L. 100–687, set out as an Effective Date note under section 7251 of this title], the authority provided by section 4081 [now 7281] of title 38, United States Code, as amended by subsection (a), shall take effect on the date of the enactment of this Act [Aug. 16, 1989].''

LIMITATION ON CONVERSION OF EMPLOYEES TO COMPETITIVE SERVICE

Section 204(b) of Pub. L. 101–94, as amended by Pub. L. 105–368, title V, § 512(c), Nov. 11, 1998, 112 Stat. 3342, provided that: ''Notwithstanding clause (1)(A) of the proviso under the heading 'Court of Veterans Appeals' in chapter XI of [title I of] Public Law 101–45 [formerly set out below], no employee of the United States Court of Appeals for Veterans Claims may be converted to the competitive service without the approval of the Court.''

APPOINTMENT OF EMPLOYEES ELIGIBLE FOR NONCOMPETITIVE CONVERSION TO POSITION IN COMPETITIVE SERVICE; PROCUREMENT OF EXPERTS AND CONSULTANTS

Pub. L. 101–45, title I, June 30, 1989, 103 Stat. 113, authorized United States Court of Veterans Appeals, during fiscal year 1989, to appoint not to exceed 35 employees to positions in competitive service if certain requirements were met and to procure services of experts and consultants.

§ 7282. Budget and expenditures

(a) The budget of the Court of Appeals for Veterans Claims as submitted by the Court for inclusion in the budget of the President for any fiscal year shall be included in that budget without review within the executive branch.

(b) The Court may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary to execute efficiently the functions vested in the Court.

(c) All expenditures of the Court shall be allowed and paid upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge. Except as provided in section 7285 of this title, all such expenditures shall be paid out of moneys appropriated for purposes of the Court.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4118, § 4082; renumbered

§ 7282 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4082 of this title as this section.

Subsec. (c). Pub. L. 102–40, § 402(d)(1), substituted ''7285'' for ''4085''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7283. Disposition of fees

Except for amounts received pursuant to section 7285 of this title, all fees received by the Court of Appeals for Veterans Claims shall be covered into the Treasury as miscellaneous receipts.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4118, § 4083; renumbered § 7283 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4083 of this title as this section and substituted ''7285'' for ''4085''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7284. Fee for transcript of record

The Court of Appeals for Veterans Claims may fix a fee, not in excess of the fee authorized by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record of any proceeding before the Court, or for copying any record, entry, or other paper and the comparison and certification thereof.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4118, § 4084; renumbered § 7284, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4084 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7285. Practice and registration fees

(a) The Court of Appeals for Veterans Claims may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year. The Court may also impose a registration fee on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title or in any other court-sponsored activity.

(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court for the following purposes:

(1) Conducting investigations and proceedings, including employing independent counsel, to pursue disciplinary matters.

(2) Defraying the expenses of—

(A) judicial conferences convened pursuant to section 7286 of this title; and

(B) other activities and programs of the Court that are intended to support and foster communication and relationships between the Court and persons practicing before the Court or the study, understanding, public commemoration, or improvement of veterans law or of the work of the Court.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4119, § 4085; renumbered § 7285, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107–103, title VI, § 604(a)–(c)(1), Dec. 27, 2001, 115 Stat. 999.)

AMENDMENTS

2001—Pub. L. 107–103, § 604(c)(1), substituted ''Practice and registration fees'' for ''Practice fee'' in section catchline.

Subsec. (a). Pub. L. 107–103, § 604(a), inserted at end ''The Court may also impose a registration fee on persons (other than judges of the Court) participating at judicial conferences convened pursuant to section 7286 of this title or in any other court-sponsored activity.''

Subsec. (b). Pub. L. 107–103, § 604(b), substituted ''for the following purposes:'' and pars. (1) and (2) for ''for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.''

1998—Subsec. (a). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40 renumbered section 4085 of this title as this section.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7286. Judicial Conference of the Court

The Chief Judge of the Court of Appeals for Veterans Claims may summon the judges of the Court to an annual judicial conference, at a time and place that the Chief Judge designates, for the purpose of considering the business of the Court and recommending means of improving the administration of justice within the Court's jurisdiction. The Court shall provide by its rules for representation and active participation at such conference by persons admitted to practice before the Court and by other persons active in the legal profession.

(Added Pub. L. 102–82, § 2(a), Aug. 6, 1991, 105 Stat. 375; amended Pub. L. 105–368, title V, § 512(a)(1), (2)(A), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105–368 struck out ''of Veterans Appeals'' after ''Court'' in section catchline and substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals'' in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7287. Administration

Notwithstanding any other provision of law, the Court of Appeals for Veterans Claims may exercise, for purposes of management, administration, and expenditure of funds of the Court, the authorities provided for such purposes by any provision of law (including any limitation with respect to such provision of law) applicable to a court of the United States (as that term is defined in section 451 of title 28), except to the extent that such provision of law is inconsistent with a provision of this chapter.

(Added Pub. L. 107–103, title VI, § 605(a), Dec. 27, 2001, 115 Stat. 1000.)

SUBCHAPTER IV—DECISIONS AND REVIEW

§ 7291. Date when Court decision becomes final

(a) A decision of the United States Court of Appeals for Veterans Claims shall become final upon the expiration of the time allowed for filing, under section 7292 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

(1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the Court of Appeals for Veterans Claims is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

(2) upon the denial of a petition for certiorari, if the decision of the Court of Appeals for Veterans Claims is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

(3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Appeals for Veterans Claims be affirmed or the appeal dismissed.

(b)(1) If the Supreme Court directs that the decision of the Court of Appeals for Veterans Claims be modified or reversed, the decision of the Court of Appeals for Veterans Claims rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Secretary or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Appeals for Veterans Claims shall become final when so corrected.

(2) If the decision of the Court of Appeals for Veterans Claims is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(B) the petition for certiorari has been denied, or

(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Appeals for Veterans Claims rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the Court of Appeals for Veterans Claims was rendered, unless within such 30 days either the Secretary or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Appeals for Veterans Claims shall become final when so corrected.

(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Appeals for Veterans Claims for a rehearing, and if—

(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

(2) the petition for certiorari has been denied, or

(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Appeals for Veterans Claims rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Appeals for Veterans Claims had been rendered.

(d) As used in this section, the term ''mandate'', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4119, § 4091; renumbered § 7291 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105–368, title V, § 512(a)(1), (2)(B), Nov. 11, 1998, 112 Stat. 3341.)

AMENDMENTS

1998—Pub. L. 105–368, § 512(a)(2)(B), substituted ''Court decision'' for ''United States Court of Veterans Appeals decision'' in section catchline.

Subsecs. (a) to (c). Pub. L. 105–368, § 512(a)(1), substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals'' wherever appearing.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4091 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 402(d)(1), substituted ''7292'' for ''4092'' in introductory provisions.

Subsec. (b). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in pars. (1) and (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7292. Review by United States Court of Appeals for the Federal Circuit

(a) After a decision of the United States Court of Appeals for Veterans Claims is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of a decision of the Court on a rule of law or of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 1155 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the Court of Appeals for Veterans Claims within the time and in the manner prescribed for appeal to United States courts of appeals from United States district courts.

(b)(1) When a judge or panel of the Court of Appeals for Veterans Claims, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the appellant and the Secretary with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Appeals for Veterans Claims. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Appeals for Veterans Claims, unless a stay is ordered by a judge of the Court of Appeals for Veterans Claims or by the Court of Appeals for the Federal Circuit.

(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the Court of Appeals for Veterans Claims.

(c) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Appeals for Veterans Claims that the Court of Appeals for the Federal Circuit finds to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

(D) without observance of procedure required by law.

(2) Except to the extent that an appeal under this chapter presents a constitutional issue, the Court of Appeals may not review (A) a challenge to a factual determination, or (B) a challenge to a law or regulation as applied to the facts of a particular case.

(e)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Appeals for Veterans Claims is not in accordance with law, to modify or reverse the decision of the Court of Appeals for Veterans Claims or to remand the matter, as appropriate.

(2) Rules for review of decisions of the Court of Appeals for Veterans Claims shall be those prescribed by the Supreme Court under section 2072 of title 28.

(Added Pub. L. 100–687, div. A, title III, § 301(a), Nov. 18, 1988, 102 Stat. 4120, § 4092; amended Pub. L. 101–94, title III, § 302(b), Aug. 16, 1989, 103 Stat. 628; renumbered § 7292, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(e)(5), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 107–330, title IV, § 402(a), Dec. 6, 2002, 116 Stat. 2832.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–330 inserted "a decision of the Court on a rule of law or of" after "the validity of" in first sentence.

1998—Subsecs. (a), (b), (d)(1), (e). Pub. L. 105–368 substituted "Court of Appeals for Veterans Claims" for "Court of Veterans Appeals" wherever appearing.

1991—Pub. L. 102–40 renumbered section 4092 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted "1155" for "355".

Subsec. (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

Subsec. (c). Pub. L. 102–54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102–40 by substituting "United States Court" for "United States Courts".

1989—Subsec. (d)(1). Pub. L. 101–94 struck out "statute or" before "regulation".

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–330, title IV, § 402(b), Dec. 6, 2002, 116 Stat. 2832, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to any appeal—

"(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act [Dec. 6, 2002]; or

"(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the en-

actment of this Act in which a decision has not been rendered as of that date.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–94 effective as if included in Pub. L. 100–687, div. A, see section 302(c) of Pub. L. 101–94, set out as a note under section 5701 of this title.

SUBCHAPTER V—RETIREMENT AND SURVIVORS ANNUITIES

§ 7296. Retirement of judges

(a) For purposes of this section:

(1) The term ''Court'' means the United States Court of Appeals for Veterans Claims.

(2) The term ''judge'' means a judge of the Court.

(b)(1) A judge who meets the age and service requirements set forth in the following table may retire:

The judge has attained age:	And the years of service as a judge are at least
65	15
66	14
67	13
68	12
69	11
70	10

(2) A judge who is not reappointed following the expiration of the term for which appointed may retire upon the completion of that term if the judge has served as a judge of the Court for 15 years or more.

(3) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall retire.

(c)(1) An individual who retires under subsection (b) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall (except as provided in paragraph (2) of this subsection) receive retired pay as follows:

(A) In the case of a judge who is a recall-eligible retired judge under section 7257 of this title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability, the retired pay of the judge shall be the pay of a judge of the court.

(B) In the case of a judge who at the time of retirement did not provide notice under section 7257 of this title of availability for service in a recalled status, the retired pay of the judge shall be the rate of pay applicable to that judge at the time of retirement.

(C) In the case of a judge who was a recall-eligible retired judge under section 7257 of this title and was removed from recall status under subsection (b)(3) of that section, the retired pay of the judge shall be the pay of the judge at the time of the removal from recall status.

(2) An individual who serves as a judge for less than 10 years and who retires under subsection (b)(3) of this section and elects under subsection (d) of this section to receive retired pay under this subsection shall receive retired pay at a rate equal to one-half of the rate of pay in effect at the time of retirement.

(3) Retired pay under this subsection shall begin to accrue on the day following the day on which the individual's salary as judge ceases to accrue and shall continue to accrue during the remainder of the individual's life. Retired pay under this subsection shall be paid in the same manner as the salary of a judge.

(d)(1) A judge may elect to receive retired pay under subsection (c) of this section. Such an election—

(A) may be made only while an individual is a judge (except that, in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, the election may be made at any time before the date after the day on which the individual's successor takes office); and

(B) may not be revoked after the retired pay begins to accrue.

(2) In the case of a judge other than the chief judge, such an election shall be made by filing notice of the election in writing with the chief judge. In the case of the chief judge, such an election shall be made by filing notice of the election in writing with the Director of the Office of Personnel Management.

(3) The chief judge shall transmit to the Director of the Office of Personnel Management a copy of each notice filed with the chief judge under this subsection.

(e) If an individual for whom an election to receive retired pay under subsection (c) is in effect accepts compensation for employment with the United States, the individual shall, to the extent of the amount of that compensation, forfeit all rights to retired pay under subsection (c) of this section for the period for which the compensation is received.

(f)(1) Except as otherwise provided in this subsection, the provisions of the civil service retirement laws (including the provisions relating to the deduction and withholding of amounts from basic pay, salary, and compensation) shall apply with respect to service as a judge as if this section had not been enacted.

(2) In the case of any individual who has filed an election to receive retired pay under subsection (c) of this section—

(A) no annuity or other payment shall be payable to any person under the civil service retirement laws with respect to any service performed by such individual (whether performed before or after such election is filed and whether performed as judge or otherwise) except as authorized by section 8440d of title 5;

(B) no deduction for purposes of the Civil Service Retirement and Disability Fund shall be made from retired pay payable to that individual under subsection (c) of this section or from any other salary, pay, or compensation payable to that individual, for any period beginning after the day on which such election is filed; and

(C) such individual shall be paid the lump-sum credit computed under section 8331(8) or 8401(a) of title 5, whichever applies, upon mak-

ing application therefor with the Office of Personnel Management.

(3)(A) A cost-of-living adjustment provided by law in annuities payable under civil service retirement laws shall apply to retired pay under this section only in the case of retired pay computed under paragraph (2) of subsection (c).

(B) If such a cost-of-living adjustment would (but for this subparagraph) result in the retired pay of a retired judge being in excess of the annual rate of pay in effect for judges of the Court as provided in section 7253(e) of this title, such adjustment may be made only in such amount as results in the retired pay of the retired judge being equal to that annual rate of pay (as in effect on the effective date of such adjustment).

(g)(1) A judge who becomes permanently disabled and as a result of that disability is unable to perform the duties of the office shall certify to the President in writing that such permanent disability exists. If the chief judge retires for such a disability, the retirement of the chief judge shall not take effect until concurred in by the President. If any other judge retires for such a disability, the chief judge shall furnish to the President a certificate of disability signed by the chief judge.

(2) Whenever the President finds that a judge has become permanently disabled and as a result of that disability is unable to perform the duties of the office, the President shall declare that judge to be retired. Before a judge may be retired under this paragraph, the judge shall be provided with a full specification of the reasons for the retirement and an opportunity to be heard.

(h)(1) An individual who has filed an election to receive retired pay under subsection (c) of this section may revoke such election at any time before the first day on which retired pay would (but for such revocation) begin to accrue with respect to such individual.

(2) Any revocation under this subsection shall be made by filing a notice of the election in writing with the Director of the Office of Personnel Management. The Office of Personnel Management shall transmit to the chief judge a copy of each notice filed under this subsection.

(3) In the case of a revocation under this subsection—

(A) for purposes of this section, the individual shall be treated as not having filed an election to receive retired pay under subsection (c) of this section;

(B) for purposes of section 7297 of this title—

(i) the individual shall be treated as not having filed an election under section 7297(b) of this title, and

(ii) section 7297(e) of this title shall not apply and the amount credited to such individual's account (together with interest at 3 percent per year, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to the individual;

(C) no credit shall be allowed for any service as a judge of the Court unless with respect to such service either there has been deducted and withheld the amount required by the civil service retirement laws or there has been deposited in the Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest;

(D) the Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (d); and

(E) if subparagraphs (C) and (D) of this paragraph are complied with, service on the Court shall be treated as service with respect to which deductions and contributions had been made during the period of service.

(i)(1) Beginning with the next pay period after the Director of the Office of Personnel Management receives a notice under subsection (d) of this section that a judge has elected to receive retired pay under this section, the Director shall deduct and withhold 1 percent of the salary of such judge. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Court of Appeals for Veterans Claims Judges Retirement Fund. Deductions under this subsection from the salary of a judge shall terminate upon the retirement of the judge or upon the completion of 15 years of service for which either deductions under this subsection or a deposit under subsection (j) of this section has been made, whichever occurs first.

(2) Each judge who makes an election under subsection (d) of this section shall be considered to agree to the deductions from salary which are made under paragraph (1) of this subsection.

(j) A judge who makes an election under subsection (d) of this section shall deposit, for service on the Court performed before the election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for the first years, not exceeding 15 years, of that service. Retired pay may not be allowed until a deposit required by this subsection has been made.

(k) The amounts deducted and withheld under subsection (i) of this section, and the amounts deposited under subsection (j) of this section, shall be deposited in the Court of Appeals for Veterans Claims Retirement Fund for credit to individual accounts in the name of each judge from whom such amounts are received.

(Added Pub. L. 101–94, title I, § 101(a), Aug. 16, 1989, 103 Stat. 617, § 4096; renumbered § 7296 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–82, § 5(c)(1), Aug. 6, 1991, 105 Stat. 376; Pub. L. 102–198, § 7(c)(4)(D), Dec. 9, 1991, 105 Stat. 1625; Pub. L. 105–368, title V, § 512(a)(1), Nov. 11, 1998, 112 Stat. 3341; Pub. L. 106–117, title X, §§ 1022, 1035(2), Nov. 30, 1999, 113 Stat. 1592, 1595; Pub. L. 107–103, title VI, § 602, Dec. 27, 2001, 115 Stat. 999.)

REFERENCES IN TEXT

The civil service retirement laws, referred to in subsecs. (f) and (h)(3)(C), are classified generally to subchapter III (§ 8331 et seq.) of chapter 83 of Title 5, Government Organization and Employees.

The Civil Service Retirement and Disability Fund, referred to in subsecs. (f)(2)(B) and (h)(3)(C), (D), is provided for in section 8348 of Title 5.

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107–103 struck out at end: ''In order to retire under this paragraph, a judge must, not earlier than 9 months preceding the date of the expiration of the judge's term of office and not later than 6 months preceding such date, advise the President in writing that the judge is willing to accept reappointment to the Court.''

1999—Subsec. (a)(2). Pub. L. 106–117, §1035(2), substituted ''a judge'' for ''the chief judge or an associate judge''.

Subsec. (c)(1). Pub. L. 106–117, §1022(a), substituted ''as follows:'' for ''at the rate of pay in effect at the time of retirement.'' and added subpars. (A) to (C).

Subsec. (f)(3). Pub. L. 106–117, §1022(b), added par. (3).

1998—Subsecs. (a)(1), (i)(1), (k). Pub. L. 105–368 substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

1991—Pub. L. 102–40, §402(b)(1), renumbered section 4096 of this title as this section.

Subsec. (f)(2)(A). Pub. L. 102–198 substituted ''8440d'' for ''8440c''.

Pub. L. 102–82 inserted before semicolon at end ''except as authorized by section 8440c of title 5''.

Subsec. (h)(3)(B). Pub. L. 102–40, §402(d)(1), substituted ''7297'' for ''4097'' in introductory provisions, ''7297(b)'' for ''4097(b)'' in cl. (i), and ''7297(e)'' for ''4097(e)'' in cl. (ii).

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1035(2) of Pub. L. 106–117 effective Nov. 30, 1999, with savings provision for incumbent chief judge, see section 1036 of Pub. L. 106–117, set out as a note under section 7253 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

TRANSITIONAL PROVISIONS TO STAGGER TERMS OF JUDGES

Pub. L. 106–117, title X, §1002, Nov. 30, 1999, 113 Stat. 1588, provided that: ''In this title [see Short Title of 1999 Amendments note set out under section 101 of this title], the term 'Court' means the United States Court of Appeals for Veterans Claims.''

Pub. L. 106–117, title X, §§1011, 1012, Nov. 30, 1999, 113 Stat. 1588, 1590, provided that:

''SEC. 1011. EARLY RETIREMENT AUTHORITY FOR CURRENT JUDGES.

''(a) RETIREMENT AUTHORIZED.—One eligible judge may retire in accordance with this section in 2000 or 2001, and one additional eligible judge may retire in accordance with this section in 2001.

''(b) ELIGIBLE JUDGES.—For purposes of this section, an eligible judge is a judge of the Court (other than the chief judge) who—

''(1) has at least 10 years of service creditable under section 7296 of title 38, United States Code;

''(2) has made an election to receive retired pay under section 7296 of such title;

''(3) has at least 20 years of service described in section 7297(*l*) of such title; and

''(4) is at least 55 years of age.

''(c) MULTIPLE ELIGIBLE JUDGES.—If for any year specified in subsection (a) more than one eligible judge provides notice in accordance with subsection (d), the judge who has the greatest seniority as a judge of the Court shall be the judge who is eligible to retire in accordance with this section in that year.

''(d) NOTICE.—An eligible judge who desires to retire in accordance with this section with respect to any year covered by subsection (a) shall provide to the President and the chief judge of the Court written notice to that effect and stating that the judge agrees to the temporary service requirements of subsection (j). Such notice shall be provided not later than April 1 of that year and shall specify the retirement date in accordance with subsection (e). Notice provided under this subsection shall be irrevocable.

''(e) DATE OF RETIREMENT.—A judge who is eligible to retire in accordance with this section shall be retired during the calendar year as to which notice is provided pursuant to subsection (d), but not earlier than 30 days after the date on which that notice is provided pursuant to subsection (d).

''(f) APPLICABLE PROVISIONS.—Except as provided in subsections (g) and (j), a judge retired in accordance with this section shall be considered for all purposes to be retired under section 7296(b)(1) of title 38, United States Code.

''(g) APPLICABILITY OF RECALL STATUS AUTHORITY.—The provisions of section 7257 of this title shall apply to a judge retired in accordance with this section as if the judge is a judge specified in subsection (a)(2)(A) of that section.

''(h) RATE OF RETIRED PAY.—The rate of retired pay for a judge retiring in accordance with this section is—

''(1) the rate applicable to that judge under section 7296(c)(1) of title 38, United States Code, multiplied by

''(2) the fraction (not in excess of 1) in which—

''(A) the numerator is the number of years of service of the judge as a judge of the Court creditable under section 7296 of such title; and

''(B) the denominator is 15.

''(i) ADJUSTMENTS IN RETIRED PAY FOR JUDGES AVAILABLE FOR RECALL.—Subject to section 7296(f)(3)(B) of title 38, United States Code, an adjustment provided by law in annuities payable under civil service retirement laws shall apply to retired pay under this section in the case of a judge who is a recall-eligible retired judge under section 7257 of such title or who was a recall-eligible retired judge under that section and was removed from recall status under subsection (b)(4) of that section by reason of disability.

''(j) DUTY OF ACTUARY.—[Amended section 7298 of this title.]

''(k) TRANSITIONAL SERVICE OF JUDGE RETIRED UNDER THIS SECTION.—(1) A judge who retires under this section shall continue to serve on the Court during the period beginning on the effective date of the judge's retirement under subsection (e) and ending on the earlier of—

''(A) the date on which a person is appointed to the position on the Court vacated by the judge's retirement; and

''(B) the date on which the judge's original appointment to the court would have expired.

''(2) Subsections (f) and (g) of section 7253 of title 38, United States Code, shall apply with respect to the service of a judge on the Court under this section.

''(3) Notwithstanding any other provision of law, a person whose service as a judge of the Court continues under this section shall be paid for the period of service under this subsection at the rate that is the difference between the current rate of pay for a judge of the Court and the rate of the judge's retired pay under subsection (g).

''(4) Amounts paid under paragraph (3)—

''(A) shall not be treated as—

''(i) compensation for employment with the United States for purposes of section 7296(e) of title 38, United States Code, or any provision of title 5, United States Code, relating to the receipt or forfeiture of retired pay or retirement annuities by a person accepting compensation for employment with the United States; or

''(ii) pay for purposes of deductions or contributions for or on behalf of the person to retired pay under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable; but

''(B) may, at the election of the person, be treated as pay for purposes of deductions or contributions for or on behalf of the person to a retirement or other

annuity, or both, under subchapter V of chapter 72 of title 38, United States Code, or under chapter 83 or 84 of title 5, United States Code, as applicable.

''(5) Amounts paid under paragraph (3) shall be derived from amounts available for payment of salaries and benefits of judges of the Court.

''(6) The service as a judge of the Court under this subsection of a person who makes an election provided for under paragraph (4)(B) shall constitute creditable service toward the judge's years of judicial service for purposes of section 7297 of title 38, United States Code, with such service creditable at a rate equal to the rate at which such service would be creditable for such purposes if served by a judge of the Court under chapter 72 of that title. For purposes of subsection (k)(3) of that section, the average annual pay for such service shall be the sum of the judge's retired pay and the amount paid under paragraph (3) of this subsection.

''(7) In the case of such a person who makes an election provided for under paragraph (4)(B), upon the termination of the service of that person as a judge of the Court under this subsection, the retired pay of that person under subsection (g) shall be recomputed to reflect the additional period of service served under this subsection.

''(*l*) TREATMENT OF POLITICAL PARTY MEMBERSHIP.—For purposes of determining compliance with the last sentence of section 7253(b) of title 38, United States Code, the political party membership of a judge serving on the Court under subsection (j) shall not be taken into account.

''SEC. 1012. MODIFIED TERMS FOR NEXT TWO JUDGES APPOINTED TO THE COURT.

''(a) MODIFIED TERMS.—The term of office of the first two judges appointed to the Court after the date of the enactment of this Act [Nov. 30, 1999] shall be 13 years (rather than the period specified in section 7253(c) of title 38, United States Code).

''(b) ELIGIBILITY FOR RETIREMENT.—(1) For purposes of determining the eligibility to retire under section 7296 of title 38, United States Code, of the two judges of the Court whose term of office is determined under subsection (a)—

''(A) the age and service requirements in the table in paragraph (2) shall apply to those judges rather than the otherwise applicable age and service requirements specified in the table in subsection (b)(1) of that section; and

''(B) the minimum years of service applicable to those judges for eligibility to retire under the first sentence of subsection (b)(2) of that section shall be 13 years instead of 15 years.

''(2) The age and service requirements in this paragraph are as follows:

"The judge has attained age:	And the years of service as a judge are at least
65	13
66	13
67	13
68	12
69	11
70	10.''

Pub. L. 106–117, title X, §1032(b), Nov. 30, 1999, 113 Stat. 1595, provided that: ''A person serving as a judge of the Court under section 1011 may not serve as chief judge of the Court.''

§ 7297. Survivor annuities

(a) For purposes of this section:

(1) The term ''Court'' means the United States Court of Appeals for Veterans Claims.

(2) The term ''judge'' means a judge of the Court who is in active service or who has retired under section 7296 of this title.

(3) The term ''pay'' means salary received under section 7253(e) of this title and retired pay received under section 7296 of this title.

(4) The term ''retirement fund'' means the Court of Appeals for Veterans Claims Retirement Fund established under section 7298 of this title.

(5) The term ''surviving spouse'' means a surviving spouse of an individual who (A) was married to such individual for at least one year immediately preceding the individual's death, or (B) is a parent of issue by the marriage.

(6) The term ''dependent child'' has the meaning given the term ''child'' in section 376(a)(5) of title 28.

(7) The term ''Member of Congress'' means a Representative, a Senator, a Delegate to Congress, or the Resident Commissioner of Puerto Rico.

(8) The term ''assassination'' as applied to a judge shall have the meaning provided that term in section 376(a)(7) of title 28 as applied to a judicial official.

(b) A judge may become a participant in the annuity program under this section by filing a written election under this subsection while in office or within six months after the date on which the judge marries if the judge has retired under section 7296 of this title. Any such election shall be made in such manner as may be prescribed by the Court.

(c) There shall be deducted and withheld each pay period from the pay of a judge who has made an election under subsection (b) of this section a sum equal to that percentage of the judge's pay that is the same as provided for the deduction from the salary or retirement salary of a judge of the United States Court of Federal Claims for the purpose of a survivor annuity under section 376(b)(1)(B) of title 28. Amounts so deducted and withheld shall be deposited in the retirement fund. A judge who makes an election under subsection (b) of this section shall be considered by that election to agree to the deductions from the judge's pay required by this subsection.

(d)(1) A judge who makes an election under subsection (b) of this section shall deposit, with interest at 3 percent per year compounded on December 31 of each year, to the credit of the retirement fund, an amount equal to 3.5 percent of the judge's pay and of the judge's basic salary, pay, or compensation for service as a Member of Congress, and for any other civilian service within the purview of section 8332 of title 5. Each such judge may elect to make such deposits in installments during the judge's period of service in such amount and under such conditions as may be determined in each instance by the chief judge. Notwithstanding the failure of a judge to make such deposit, credit shall be allowed for the service rendered, but the annual annuity of the surviving spouse of such judge shall be reduced by an amount equal to 10 percent of the amount of such deposit, computed as of the date of the death of such judge, unless the surviving spouse elects to eliminate such service entirely from credit under subsection (k) of this section. However, a deposit shall not be required from a judge for any year with respect to which deductions from the judge's pay, or a deposit, were actually made (and not withdrawn) under the civil service retirement laws.

(2) The interest required under the first sentence of paragraph (1) shall not be required for any period—

(A) during which a judge was separated from any service described in section 376(d)(2) of title 28; and

(B) during which the judge was not receiving retired pay based on service as a judge or receiving any retirement salary as described in section 376(d)(1) of title 28.

(e) If the service of a judge who makes an election under subsection (b) of this section terminates other than pursuant to the provisions of section 7296 of this title, or if any judge ceases to be married after making the election under subsection (b) of this section and revokes (in a writing filed as provided in subsection (b) of this section) such election, the amount credited to the judge's individual account (together with interest at 3 percent per year compounded on December 31 of each year to the date of the judge's relinquishment of office) shall be returned to the judge. For the purpose of this section, the service of a judge making an election under subsection (b) of this section shall be considered to have terminated pursuant to section 7296 of this title if—

(1) the judge is not reappointed following expiration of the term for which appointed; and

(2) at or before the time of the expiration of that term, the judge is eligible for and elects to receive retired pay under section 7296 of this title.

(f)(1) If a judge who makes an election under subsection (b) of this section dies after having rendered at least 18 months of civilian service (computed as prescribed in subsection (*l*) of this section), for the last 18 months of which the salary deductions provided for by subsection (c) of this section or the deposits required by subsection (d) of this section have actually been made (and not withdrawn) or the salary deductions required by the civil service retirement laws have actually been made (and not withdrawn)—

(A) if the judge is survived by a surviving spouse but not by a dependent child, there shall be paid to the surviving spouse an annuity beginning with the day of the death of the judge, in an amount computed as provided in subsection (k) of this section; or

(B) if the judge is survived by a surviving spouse and a dependent child or children, there shall be paid to the surviving spouse an immediate annuity in an amount computed as provided in subsection (k) of this section and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

(i) 10 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

(ii) 20 percent of such average annual pay, divided by the number of such children; or

(C) if the judge is not survived by a surviving spouse but is survived by a dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

(i) 20 percent of the average annual pay of such judge (determined in accordance with subsection (k) of this section), or

(ii) 40 percent of such average annual pay, divided by the number of such children.

(2) The annuity payable to a surviving spouse under this subsection shall be terminated—

(A) upon the surviving spouse's death; or

(B) upon the remarriage of the surviving spouse before age 55.

(3) The annuity payable to a child under this subsection shall be terminated upon the child's death.

(4) In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving the spouse, the annuity of such child or children under paragraph (1)(B) of this subsection shall be recomputed and paid as provided in paragraph (1)(C) of this subsection. In any case in which the annuity of a dependent child is terminated, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived the judge.

(5) If a judge dies as a result of an assassination and leaves a survivor or survivors who are otherwise entitled to receive annuity payments under this section, the 18-month requirement in the matter in paragraph (1) preceding subparagraph (A) shall not apply.

(g) Questions of family relationships, dependency, and disability arising under this section shall be determined in the same manner as such questions arising under chapter 84 of title 5 are determined.

(h)(1) If—

(A) a judge making an election under subsection (b) of this section dies while in office (i) before having rendered 5 years of civilian service computed as prescribed in subsection (*l*) of this section, or (ii) after having rendered 5 years of such civilian service but without a survivor entitled to annuity benefits provided by subsection (f) of this section; or

(B) the right of all persons entitled to an annuity under subsection (f) of this section based on the service of such judge terminates before a claim for such benefits has been established,

the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year, to the date of the death of such judge) shall be paid in the manner specified in paragraph (2) of this subsection.

(2) An amount payable under paragraph (1) of this subsection shall be paid, upon the establishment of a valid claim therefor, to the person or persons surviving at the date title to the payment arises, in the following order of precedence:

(A) To the beneficiary or beneficiaries whom the judge designated in writing filed before death with the chief judge (except that in the case of the chief judge such designation shall be filed before death as prescribed by the Court).

(B) To the surviving spouse of the judge.

(C) To the child or children of the judge (and the descendants of any deceased children by representation).

(D) To the parents of the judge or the survivor of them.

(E) To the executor or administrator of the estate of the judge.

(F) To such other next of kin of the judge as may be determined by the chief judge to be entitled under the laws of the domicile of the judge at the time of the judge's death.

(3) Determination as to the surviving spouse, child, or parent of a judge for the purposes of paragraph (2) of this subsection shall be made without regard to the definitions in subsection (a) of this section.

(4) Payment under this subsection in the manner provided in this subsection shall be a bar to recovery by any other person.

(5) In a case in which the annuities of all persons entitled to annuity based upon the service of a judge terminate before the aggregate amount of annuity paid equals the total amount credited to the individual account of such judge (with interest at 3 percent per year, compounded on December 31 of each year to the date of the death of the judge), the difference shall be paid, upon establishment of a valid claim therefor, in the order of precedence prescribed in paragraph (2) of this subsection.

(6) Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any individual based upon the service of a judge shall be paid to that individual. Any accrued annuity remaining unpaid upon the death of an individual receiving an annuity based upon the service of a judge shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

(A) To the executor or administrator of the estate of that person.

(B) After 30 days after the date of the death of such individual, to such individual or individuals as may appear in the judgment of the chief judge to be legally entitled thereto.

Such payment shall be a bar to recovery by any other individual.

(i) When a payment under this section is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, the payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or the claimant's estate. If no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the chief judge shall determine the person who is otherwise legally vested with the care of the claimant or the claimant's estate.

(j) Annuities under this section shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity has accrued. An annuity under this section is not assignable, either in law or in equity, or subject to execution, levy, attachment, garnishment, or other legal process.

(k)(1) The annuity of the surviving spouse of a judge making an election under subsection (b) of this section shall be an amount equal to the sum of the following:

(A) The product of—

(i) 1.5 percent of the judge's average annual pay; and

(ii) the sum of the judge's years of judicial service, the judge's years of prior allowable service as a Member of Congress, the judge's years of prior allowable service performed as a member of the Armed Forces, and the judge's years, not exceeding 15, of prior allowable service performed as a congressional employee (as defined in section 2107 of title 5).

(B) Three-fourths of 1 percent of the judge's average annual pay multiplied by the judge's years of allowable service not counted under subparagraph (A) of this paragraph.

(2) An annuity computed under this subsection may not exceed 50 percent of the judge's average annual pay and may not be less than 25 percent of such average annual pay. Such annuity shall be further reduced in accordance with subsection (d) of this section (if applicable).

(3) For purposes of this subsection, the term ''average annual pay'', with respect to a judge, means the average annual pay received by the judge for judicial service (including periods in which the judge received retired pay under section 7296(d) of this title) or for any other prior allowable service during the period of three consecutive years in which the judge received the largest such average annual pay.

(*l*) Subject to subsection (d) of this section, the years of service of a judge which are allowable as the basis for calculating the amount of the annuity of the judge's surviving spouse shall include the judge's years of service as a judge of the Court, the judge's years of service as a Member of Congress, the judge's years of active service as a member of the Armed Forces not exceeding 5 years in the aggregate and not including any such service for which credit is allowed for the purposes of retirement or retired pay under any other provision of law, and the judge's years of any other civilian service within the purview of section 8332 of title 5.

(m) Nothing contained in this section shall be construed to prevent a surviving spouse eligible therefor from simultaneously receiving an annuity under this section and any annuity to which such spouse would otherwise be entitled under any other law without regard to this section, but in computing such other annuity service used in the computation of such spouse's annuity under this section shall not be credited.

(n) A judge making an election under subsection (b) of this section shall, at the time of such election, waive all benefits under the civil service retirement laws except section 8440d of title 5. Such a waiver shall be made in the same manner and shall have the same force and effect as an election filed under section 7296(d) of this title.

(*o*) Each survivor annuity payable from the retirement fund shall be increased at the same time as, and by the same percentage by which, annuities payable from the Judicial Survivors'

Annuities Fund are increased pursuant to section 376(m) of title 28.

(Added Pub. L. 101–94, title I, § 101(a), Aug. 16, 1989, 103 Stat. 620, § 4097; renumbered § 7297 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(e)(6), June 13, 1991, 105 Stat. 287; Pub. L. 102–82, § 5(c)(2), Aug. 6, 1991, 105 Stat. 376; Pub. L. 102–198, § 7(c)(4)(E), Dec. 9, 1991, 105 Stat. 1625; Pub. L. 105–368, title V, §§ 503, 512(a)(1), Nov. 11, 1998, 112 Stat. 3340, 3341; Pub. L. 106–117, title X, §§ 1023, 1035(2), Nov. 30, 1999, 113 Stat. 1592, 1595.)

REFERENCES IN TEXT

The civil service retirement laws, referred to in subsecs. (d)(1), (f)(1), and (n), are classified generally to subchapter III (§ 8331 et seq.) of chapter 83 of Title 5, Government Organization and Employees.

AMENDMENTS

1999—Subsec. (a)(2). Pub. L. 106–117, § 1035(2), substituted ''a judge'' for ''the chief judge or an associate judge''.

Pub. L. 106–117, § 1023(e)(2)(A), inserted ''who is in active service or who has retired under section 7296 of this title'' after ''Court''.

Subsec. (a)(3). Pub. L. 106–117, § 1023(e)(2)(B), substituted ''7296'' for ''7296(c)''.

Subsec. (a)(5). Pub. L. 106–117, § 1023(a), substituted ''one year'' for ''two years''.

Subsec. (a)(8). Pub. L. 106–117, § 1023(e)(2)(C), added par. (8).

Subsec. (b). Pub. L. 106–117, § 1023(b), inserted ''or within six months after the date on which the judge marries if the judge has retired under section 7296 of this title'' before the period at end of first sentence.

Subsec. (c). Pub. L. 106–117, § 1023(c), substituted ''that percentage of the judge's pay that is the same as provided for the deduction from the salary or retirement salary of a judge of the United States Court of Federal Claims for the purpose of a survivor annuity under section 376(b)(1)(B) of title 28'' for ''3.5 percent of the judge's pay''.

Subsec. (d). Pub. L. 106–117, § 1023(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(1). Pub. L. 106–117, § 1023(e)(1)(A), in introductory provisions, substituted ''at least 18 months'' for ''at least 5 years'' and ''last 18 months'' for ''last 5 years''.

Subsec. (f)(1)(A). Pub. L. 106–117, § 1023(f), struck out ''or following the surviving spouse's attainment of the age of 50 years, whichever is the later'' after ''death of the judge''.

Subsec. (f)(5). Pub. L. 106–117, § 1023(e)(1)(B), added par. (5).

1998—Subsec. (a)(1), (4). Pub. L. 105–368, § 512(a)(1), substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

Subsec. (*o*). Pub. L. 105–368, § 503, amended subsec. (*o*) generally. Prior to amendment, subsec. (*o*) read as follows: ''Whenever the salaries of judges paid under section 7253(e) of this title are increased, each annuity payable from the retirement fund which is based, in whole or in part, upon a deceased judge having rendered some portion of that judge's final 18 months of service as a judge of the Court, shall also be increased. The amount of the increase in the annuity shall be determined by multiplying the amount of the annuity on the date on which the increase in salaries becomes effective by 3 percent for each full 5 percent by which those salaries were increased.''

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4097 of this title as this section.

Subsec. (a)(3). Pub. L. 102–40, § 402(d)(1), substituted ''7253(e)'' for ''4053(e)'' and ''7296(c)'' for ''4096(c)''.

Subsec. (a)(4). Pub. L. 102–40, § 402(d)(1), substituted ''7298'' for ''4098''.

Subsec. (e). Pub. L. 102–40, § 402(d)(1), substituted ''7296'' for ''4096'' wherever appearing.

Subsec. (h)(1)(A)(i). Pub. L. 102–54 amended subsec. (h)(1)(A)(i) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''subsection (*l*)'' for ''subsection (1)''.

Subsec. (k)(3). Pub. L. 102–40, § 402(d)(1), substituted ''7296(d)'' for ''4096(d)''.

Subsec. (n). Pub. L. 102–198 substituted ''8440d'' for ''8440c''.

Pub. L. 102–82 inserted ''except section 8440c of title 5'' before period at end of first sentence.

Pub. L. 102–40, § 402(d)(1), substituted ''7296(d)'' for ''4096(d)''.

Subsec. (*o*). Pub. L. 102–40, § 402(d)(1), substituted ''7253(e)'' for ''4053(e)''.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1035(2) of Pub. L. 106–117 effective Nov. 30, 1999, with savings provision for incumbent chief judge, see section 1036 of Pub. L. 106–117, set out as a note under section 7253 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 512(a)(1) of Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7298. Retirement Fund

(a) There is established in the Treasury a fund known as the Court of Appeals for Veterans Claims Retirement Fund.

(b) Amounts in the fund are available for the payment of judges' retired pay under section 7296 of this title and of annuities, refunds, and allowances under section 7297 of this title.

(c) Amounts deposited by, or deducted and withheld from the salary and retired pay of, a judge under section 7296 or 7297 of this title shall be deposited in the fund and credited to an individual account of the judge.

(d) The chief judge of the Court of Appeals for Veterans Claims shall submit to the President an annual estimate of the expenditures and appropriations necessary for the maintenance and operation of the fund, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

(e)(1) The chief judge may cause periodic examinations of the retirement fund to be made by an actuary, who may be an actuary employed by another department of the Government temporarily assigned for the purpose.

(2)(A) Subject to the availability of appropriations, there shall be deposited in the Treasury to the credit of the retirement fund, not later than the close of each fiscal year, such amounts as may be required to reduce to zero the unfunded liability (if any) of the fund. Such deposits shall be taken from sums available for that fiscal year for the payment of the expenses of the Court.

(B) For purposes of subparagraph (A) of this paragraph, the term ''unfunded liability'', with respect to any fiscal year, means the amount estimated by the chief judge to be equal to the excess (as of the close of that fiscal year) of—

(i) the present value of all benefits payable from the fund (determined on an annual basis in accordance with section 9503 of title 31), over

(ii) the sum of—

(I) the present values of future deductions under sections 7296(i) and 7297(c) of this title and future deposits under sections 7296(j) and 7296(d) of this title, and

(II) the balance in the fund as of the close of the fiscal year.

(C) For purposes of subparagraph (B), the term ''present value'' includes a value determined by an actuary with respect to a payment that may be made under subsection (b) from the retirement fund within the contemplation of law.

(D) Amounts deposited in the retirement fund under this paragraph shall not be credited to the account of any individual.

(f) The Secretary of the Treasury shall invest from time to time, in interest-bearing securities of the United States, such portions of the retirement fund as in such Secretary's judgment may not be immediately required for payments from the fund. The income derived from such investments shall constitute a part of the fund.

(g) For purpose of section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)), the retirement fund shall be treated in the same manner as the Claims Judges' Retirement Fund.

(Added Pub. L. 101–94, title I, § 101(a), Aug. 16, 1989, 103 Stat. 625, § 4098; renumbered § 7298 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 105–368, title V, §§ 502, 512(a)(1), (2)(C), Nov. 11, 1998, 112 Stat. 3340, 3341; Pub. L. 106–117, title X, § 1011(j), Nov. 30, 1999, 113 Stat. 1589.)

AMENDMENTS

1999—Subsec. (e)(2)(C), (D). Pub. L. 106–117 added subpar. (D) and redesignated former subpar. (C) as (D).

1998—Pub. L. 105–368, § 512(a)(2)(C), struck out ''Court of Veterans Appeals'' before ''Retirement Fund'' in section catchline.

Subsecs. (a), (d). Pub. L. 105–368, § 512(a)(1), substituted ''Court of Appeals for Veterans Claims'' for ''Court of Veterans Appeals''.

Subsec. (g). Pub. L. 105–368, § 502, added subsec. (g).

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4098 of this title as this section.

Subsecs. (b), (c). Pub. L. 102–40, § 402(d)(1), substituted ''7296'' for ''4096'' and ''7297'' for ''4097''.

Subsec. (e)(2)(B)(ii)(I). Pub. L. 102–40, § 402(d)(1), substituted ''7296(i) and 7297(c)'' for ''4096(i) and 4097(c)'' and ''7296(j) and 7296(d)'' for ''4096(j) and 4096(d)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 512(a)(1), (2)(C) of Pub. L. 105–368 effective on first day of first month beginning more than 90 days after Nov. 11, 1998, see section 513 of Pub. L. 105–368, set out as a note under section 7251 of this title.

§ 7299. Limitation on activities of retired judges

(a) A retired judge of the Court who is recall-eligible under section 7257 of this title and who in the practice of law represents (or supervises or directs the representation of) a client in making any claim relating to veterans' benefits against the United States or any agency thereof shall, pursuant to such section, be considered to have declined recall service and be removed from the status of a recall-eligible judge. The pay of such a judge, pursuant to section 7296 of this title, shall be the pay of the judge at the time of the removal from recall status.

(b) A recall-eligible judge shall be considered to be an officer or employee of the United States, but only during periods when the judge is serving in recall status. Any prohibition, limitation, or restriction that would otherwise apply to the activities of a recall-eligible judge shall apply only during periods when the judge is serving in recall status.

(Added Pub. L. 106–117, title X, § 1024(a), Nov. 30, 1999, 113 Stat. 1593.)

CHAPTER 73—VETERANS HEALTH ADMINISTRATION—ORGANIZATION AND FUNCTIONS

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AMENDMENTS

2004—Pub. L. 108–422, title III, §§302(a)(2), 303(c)(2), Nov. 30, 2004, 118 Stat. 2385, 2387, added items 7327 and 7328.

2003—Pub. L. 108–170, title IV, §§401(a)(2), 402(a)(2), Dec. 6, 2003, 117 Stat. 2061, 2062, added items 7307 and 7364A.

2002—Pub. L. 107–287, §§2(a)(2), 3(a)(2), Nov. 7, 2002, 116 Stat. 2027, 2028, added items 7325 and 7326.

Pub. L. 107–135, title I, §125(a)(2), Jan. 23, 2002, 115 Stat. 2453, added item 7324.

2001—Pub. L. 107–14, §8(a)(14)(B), June 5, 2001, 115 Stat. 35, struck out item 7367 ''Report to Congress''.

2000—Pub. L. 106–419, title II, §201(b)(2), Nov. 1, 2000, 114 Stat. 1840, added item 7323.

1997—Pub. L. 105–114, title II, §208(a)(2), Nov. 21, 1997, 111 Stat. 2289, added item 7322.

1996—Pub. L. 104–262, title III, §§321(a)(2), 334(a)(2), 335(b), Oct. 9, 1996, 110 Stat. 3195, 3203, 3205, added items 7319 to 7321.

1994—Pub. L. 103–446, title XII, §1201(h)(3), Nov. 2, 1994, 108 Stat. 4688, inserted ''PROTECTION OF'' before ''PATIENT'' in heading for subchapter III.

1992—Pub. L. 102–585, title V, §511(a)(2), Nov. 4, 1992, 106 Stat. 4956, added item 7318.

Pub. L. 102–405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984, substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in item 7306.

1991—Pub. L. 102–40, title IV, §401(a)(1), (3), May 7, 1991, 105 Stat. 210, substituted ''VETERANS HEALTH ADMINISTRATION—ORGANIZATION AND FUNCTIONS'' for ''DEPARTMENT OF MEDICINE AND SURGERY'' as chapter heading, added analysis for subchapters I to IV, and struck out former analysis consisting of subchapter I containing items 4101 to 4119 and 4210, subchapter II containing items 4121 to 4124, subchapter III containing items 4131 to 4134, subchapter IV containing items 4141 and 4142, subchapter V containing items 4151 and 4152, and subchapter VI containing items 4161 to 4168.

1990—Pub. L. 101–366, title I, §102(d), Aug. 15, 1990, 104 Stat. 436, added heading for subchapter IV and items 4141 and 4142.

1988—Pub. L. 100–322, title I, §122(b), title II, §§204(b), 212(a)(2), 216(e)(1), May 20, 1988, 102 Stat. 504, 512, 516, 530, added item 4210 [4120] after item 4119, substituted ''Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus'' for ''Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities'' in item 4133, substituted ''Regulations'' for ''Coordination; reports'' in item 4134, struck out heading for Subchapter IV, ''VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM'' and items 4141 ''Establishment of program; purpose; duration'', 4142 ''Eligibility; application; written contract'', 4143 ''Obligated service'', 4144 ''Breach of contract; liability; waiver'', 4145 ''Exemption of scholarship payments from taxation'', and 4146 ''Program subject to availability of appropriations'', and added heading for subchapter VI and items 4161 to 4168.

1986—Pub. L. 99–576, title VII, §702(12), Oct. 28, 1986, 100 Stat. 3302, substituted ''appointments'' for ''appointment'' in item 4106.

1985—Pub. L. 99–166, title II, §204(a)(2), Dec. 3, 1985, 99 Stat. 952, added heading for subchapter V and items 4151 and 4152.

1980—Pub. L. 96–330, title I, §116(a)(2), title II, §201(a)(2), Aug. 26, 1980, 94 Stat. 1039, 1047, added item 4119, heading for subchapter IV and items 4141 to 4146.

1976—Pub. L. 94–581, title I, §111(a)(2), Oct. 21, 1976, 90 Stat. 2852, added analysis for subchapter III consisting of items 4131 to 4134.

1975—Pub. L. 94–123, §2(d)(2), Oct. 22, 1975, 89 Stat. 673, added item 4118.

1973—Pub. L. 93–82, title II, §204(b), Aug. 2, 1973, 87 Stat. 192, substituted ''Personnel administration'' for ''Administration'' in item 4108.

1972—Pub. L. 92–541, §3(b), Oct. 24, 1972, 86 Stat. 1108, designated existing sections as subchapter I and added subchapter II.

1966—Pub. L. 89–785, title I, §§109(b), 111(d), 112(b), Nov. 7, 1966, 80 Stat. 1371, 1372, substituted ''Special Medical Advisory group; other advisory bodies'' for ''Medical advisory Group'' in item 4112, and ''Temporary full-time, part-time, and without compensation appointments'' for ''Temporary and part-time appointments'' in item 4114, and added item 4117.

1965—Pub. L. 89–311, §6(b), Oct. 31, 1965, 79 Stat. 1157, added item 4116.

1964—Pub. L. 88–426, title I, §117(b), Aug. 14, 1964, 78 Stat. 410, substituted ''Office of the Chief Medical Director'' for ''Appointments and compensation'' in item 4103.

1962—Pub. L. 87–793, §803(b), Oct. 11, 1962, 76 Stat. 861, substituted ''Administration'' for ''Specialist ratings'' in item 4108.

Pub. L. 87–574, §4(3), Aug. 6, 1962, 76 Stat. 309, inserted ''; residencies and internships'' in item 4114.

SUBCHAPTER I—ORGANIZATION

PRIOR PROVISIONS

A prior subchapter I of this chapter consisting of sections 4101 to 4120, related to organization of Department of Medicine and Surgery, prior to repeal by Pub. L. 102–40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 210. See Prior Provisions notes set out under sections 4101 to 4110A of this title.

§ 7301. Functions of Veterans Health Administration: in general

(a) There is in the Department of Veterans Affairs a Veterans Health Administration. The Under Secretary for Health is the head of the Administration. The Under Secretary for Health may be referred to as the Chief Medical Director.

(b) The primary function of the Administration is to provide a complete medical and hospital service for the medical care and treatment of veterans, as provided in this title and in regulations prescribed by the Secretary pursuant to this title.

(Added Pub. L. 102–40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 211; amended Pub. L. 102–405, title III, §302(c)(1), (2), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–405 substituted ''Under Secretary for Health is'' for ''Chief Medical Director is'' and inserted at end ''The Under Secretary for Health may be referred to as the Chief Medical Director.''

§ 7302. Functions of Veterans Health Administration: health-care personnel education and training programs

(a) In order to carry out more effectively the primary function of the Veterans Health Administration and in order to assist in providing an adequate supply of health personnel to the Nation, the Secretary—

(1) to the extent feasible without interfering with the medical care and treatment of veterans, shall develop and carry out a program of education and training of health personnel; and

(2) shall carry out a major program for the recruitment, training, and employment of veterans with medical military occupation specialties as—

(A) physician assistants;

(B) expanded-function dental auxiliaries; and

(C) other medical technicians.

(b) In carrying out subsection (a)(1), the Secretary shall include in the program of education and training under that subsection the developing and evaluating of new health careers, interdisciplinary approaches, and career advancement opportunities.

(c) In carrying out subsection (a)(2), the Secretary shall include in the program of recruitment, training, and employment under that subsection measures to advise all qualified veterans with military occupation specialties referred to in that subsection, and all members of the armed forces about to be discharged or released from active duty who have such military occupation specialties, of employment opportunities with the Administration.

(d) The Secretary shall carry out subsection (a) in cooperation with the following institutions and organizations:

(1) Schools of medicine, osteopathy, dentistry, nursing, pharmacy, optometry, podiatry, public health, or allied health professions.

(2) Other institutions of higher learning.

(3) Medical centers.

(4) Academic health centers.

(5) Hospitals.

(6) Such other public or nonprofit agencies, institutions, or organizations as the Secretary considers appropriate.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 211.)

§ 7303. Functions of Veterans Health Administration: research programs

(a)(1) In order to carry out more effectively the primary function of the Administration and in order to contribute to the Nation's knowledge about disease and disability, the Secretary shall carry out a program of medical research in connection with the provision of medical care and treatment to veterans. Funds appropriated to carry out this section shall remain available until expended.

(2) Such program of medical research shall include biomedical research, mental illness research, prosthetic and other rehabilitative research, and health-care-services research.

(3) Such program shall stress—

(A) research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities; and

(B) research into injuries and illnesses particularly related to service.

(4) In carrying out such research program, the Secretary shall act in cooperation with the entities described in section 7302(d) of this title.

(b) Prosthetic research shall include research and testing in the field of prosthetic, orthotic, and orthopedic appliances and sensory devices. In order that the unique investigative material and research data in the possession of the Government may result in the improvement of such appliances and devices for all disabled persons, the Secretary (through the Under Secretary for Health) shall make the results of such research available to any person, and shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers).

(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate—

(A) women who are veterans are included as subjects in each project of such research; and

(B) members of minority groups who are veterans are included as subjects of such research.

(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.

(d)(1) The Secretary, in carrying out the Secretary's responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

(B) The members of the Advisory Committee on Women Veterans.

(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 211; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–452, title I, § 102(a), (b)(1), Nov. 2, 1994, 108 Stat. 4785, 4786; Pub. L. 105–220, title IV, § 414(c), Aug. 7, 1998, 112 Stat. 1242; Pub. L. 107–135, title II, § 205(a), Jan. 23, 2002, 115 Stat. 2460; Pub. L. 108–170, title IV, § 401(b), Dec. 6, 2003, 117 Stat. 2061.)

REFERENCES IN TEXT

Section 204(b)(3) of the Rehabilitation Act of 1973, referred to in subsec. (b), is classified to section 764(b)(3) of Title 29, Labor.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–170 struck out subsec. (e) which read as follows: "Amounts for the activities of the field offices of the Office of Research Compliance and Assurance of the Department shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care (rather than from amounts appropriated for the Veterans Health Administration for Medical and Prosthetic Research)."

2002—Subsec. (e). Pub. L. 107–135 added subsec. (e).

1998—Subsec. (b). Pub. L. 105–220 substituted ''section 204(b)(3) of the Rehabilitation Act of 1973'' for ''section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))''.

1994—Pub. L. 103–452 transferred text of subsec. (c) to the end of subsec. (a)(1), struck out subsec. (c) designation, and added new subsecs. (c) and (d).

1992—Subsec. (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

APPLICABILITY TO FISCAL YEAR 2002

Pub. L. 107–135, title II, § 205(b), Jan. 23, 2002, 115 Stat. 2460, related to transfer of appropriations for fiscal year 2002 to carry out subsec. (e) of this section for that fiscal year.

POST-TRAUMATIC STRESS DISORDER RESEARCH

Section 122(a) of Pub. L. 102–405 provided that: ''In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) post-traumatic stress disorder, (2) post-traumatic stress disorder in association with substance abuse, and (3) the treatment of those disorders.''

RESEARCH RELATING TO WOMEN VETERANS' HEALTH

Pub. L. 102–585, title I, § 109, Nov. 4, 1992, 106 Stat. 4948, provided for initiation and expansion of research relating to health of women veterans and authorization of appropriations for fiscal years 1993 through 1995 to carry out such studies, prior to repeal by Pub. L. 103–452, title I, § 102(b)(2), Nov. 2, 1994, 108 Stat. 4786.

§ 7304. Regulations

(a) Unless specifically otherwise provided, the Under Secretary for Health shall prescribe all regulations necessary to the administration of the Veterans Health Administration, including regulations relating to—

(1) travel, transportation of household goods and effects, and deductions from pay for quarters and subsistence; and

(2) the custody, use, and preservation of the records, papers, and property of the Administration.

(b) Regulations prescribed by the Under Secretary for Health are subject to the approval of the Secretary.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 212; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in subsecs. (a) and (b).

§ 7305. Divisions of Veterans Health Administration

The Veterans Health Administration shall include the following:

(1) The Office of the Under Secretary for Health.

(2) A Medical Service.

(3) A Dental Service.

(4) A Podiatric Service.

(5) An Optometric Service.

(6) A Nursing Service.

(7) Such other professional and auxiliary services as the Secretary may find to be necessary to carry out the functions of the Administration.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 212; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Par. (1). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

§ 7306. Office of the Under Secretary for Health

(a) The Office of the Under Secretary for Health shall consist of the following:

(1) The Deputy Under Secretary for Health, who shall be the principal assistant of the Under Secretary for Health and who shall be a qualified doctor of medicine.

(2) The Associate Deputy Under Secretary for Health, who shall be an assistant to the Under Secretary for Health and the Deputy Under Secretary for Health and who shall be a qualified doctor of medicine.

(3) Not to exceed eight Assistant Under Secretaries for Health.

(4) Such Medical Directors as may be appointed to suit the needs of the Department, who shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.

(5) A Director of Nursing Service, who shall be a qualified registered nurse and who shall be responsible to, and report directly to, the Under Secretary for Health for the operation of the Nursing Service.

(6) A Director of Pharmacy Service, a Director of Dietetic Service, a Director of Podiatric Service, and a Director of Optometric Service, who shall be responsible to the Under Secretary for Health for the operation of their respective Services.

(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.

(8) The Director of the National Center for Preventive Health, who shall be responsible to the Under Secretary for Health for the operation of the Center.

(9) The Advisor on Physician Assistants, who shall be a physician assistant with appropriate experience and who shall advise the Under Secretary for Health on all matters relating to the utilization and employment of physician assistants in the Administration.

(10) Such other personnel as may be authorized by this chapter.

(b) Of the Assistant Under Secretaries for Health appointed under subsection (a)(3)—

(1) not more than two may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines;

(2) one shall be a qualified doctor of dental surgery or dental medicine who shall be directly responsible to the Under Secretary for Health for the operation of the Dental Service; and

(3) one shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Under Secretary for Health for evaluating all

research, educational, and clinical health-care programs carried out in the Administration in the field of geriatrics and who shall serve as the principal advisor to the Under Secretary for Health with respect to such programs.

(c) Appointments under subsection (a) shall be made by the Secretary. In the case of appointments under paragraphs (1), (2), (3), (4), and (8) of that subsection, such appointments shall be made upon the recommendation of the Under Secretary for Health.

(d) Except as provided in subsection (e)—

(1) any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods,

(2) any such appointment or reappointment may be extended by the Secretary for a period not in excess of three years, and

(3) any person so appointed or reappointed or whose appointment or reappointment is extended shall be subject to removal by the Secretary for cause.

(e)(1) The Secretary may designate a member of the Chaplain Service of the Department as Director, Chaplain Service, for a period of two years, subject to removal by the Secretary for cause. Redesignation under this subsection may be made for successive like periods or for any period not exceeding two years.

(2) A person designated as Director, Chaplain Service, shall at the end of such person's period of service as Director revert to the position, grade, and status which such person held immediately before being designated Director, Chaplain Service, and all service as Director, Chaplain Service, shall be creditable as service in the former position.

(f) In organizing the Office and appointing persons to positions in the Office, the Under Secretary shall ensure that—

(1) the Office is staffed so as to provide the Under Secretary, through a designated clinician in the appropriate discipline in each instance, with expertise and direct policy guidance on—

(A) unique programs operated by the Administration to provide for the specialized treatment and rehabilitation of disabled veterans (including blind rehabilitation, care of spinal cord dysfunction, mental illness, and long-term care); and

(B) the programs established under section 1712A of this title; and

(2) with respect to the programs established under section 1712A of this title, a clinician with appropriate expertise in those programs is responsible to the Under Secretary for the management of those programs.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 212; amended Pub. L. 102–405, title II, § 205, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984; Pub. L. 102–585, title V, § 511(b), Nov. 4, 1992, 106 Stat. 4956; Pub. L. 103–446, title XII, § 1201(c)(3), Nov. 2, 1994, 108 Stat. 4683; Pub. L. 104–262, title III, § 344, Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–419, title II, § 206, Nov. 1, 2000, 114 Stat. 1842; Pub. L. 107–135, title I, § 131, Jan. 23, 2002, 115 Stat. 2454.)

AMENDMENTS

2002—Subsec. (a)(5). Pub. L. 107–135 inserted ", and report directly to," after "responsible to".

2000—Subsec. (a)(9), (10). Pub. L. 106–419 added par. (9) and redesignated former par. (9) as (10).

1996—Subsec. (f). Pub. L. 104–262 added subsec. (f).

1994—Subsec. (a)(3). Pub. L. 103–446, § 1201(c)(3)(A)(i), substituted "Assistant Under Secretaries for Health" for "Assistant Chief Medical Directors".

Pars. (7) to (9). Pub. L. 103–446, § 1201(c)(3)(A)(ii)–(iv), redesignated par. (8), relating to such directors, as (7), par. (7) as (8), and par. (8), relating to such other personnel, as (9), and in par. (8), as so redesignated, substituted "Under Secretary for Health" for "Chief Medical Director".

Subsec. (b). Pub. L. 103–446, § 1201(c)(3)(B), substituted "Assistant Under Secretaries for Health" for "Assistant Chief Medical Directors".

Subsec. (c). Pub. L. 103–446, § 1201(c)(3)(C), substituted "and (8)" for "and (7)".

1992—Pub. L. 102–405, § 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" in section catchline.

Subsec. (a). Pub. L. 102–405, § 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (a)(7). Pub. L. 102–585, § 511(b)(1)(B), added par. (7). Former par. (7), relating to such directors, redesignated (8).

Pub. L. 102–405, § 205(2), added par. (7). Former par. (7), relating to such other personnel, redesignated (8).

Subsec. (a)(8). Pub. L. 102–585, § 511(b)(1)(A), redesignated par. (7), relating to such directors, as (8).

Pub. L. 102–405, § 205(1), redesignated par. (7), relating to such other personnel, as (8).

Subsec. (b)(2), (3). Pub. L. 102–405, § 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" wherever appearing.

Subsec. (c). Pub. L. 102–585, § 511(b)(2), substituted "(4), and (7)" for "and (4)".

Pub. L. 102–405, § 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director".

§ 7307. Office of Research Oversight

(a) REQUIREMENT FOR OFFICE.—(1) There is in the Veterans Health Administration an Office of Research Oversight (hereinafter in this section referred to as the "Office"). The Office shall advise the Under Secretary for Health on matters of compliance and assurance in human subjects protections, research safety, and research impropriety and misconduct. The Office shall function independently of entities within the Veterans Health Administration with responsibility for the conduct of medical research programs.

(2) The Office shall—

(A) monitor, review, and investigate matters of medical research compliance and assurance in the Department with respect to human subjects protections; and

(B) monitor, review, and investigate matters relating to the protection and safety of human subjects and Department employees participating in medical research in Department programs.

(b) DIRECTOR.—(1) The head of the Office shall be a Director, who shall report directly to the Under Secretary for Health (without delegation).

(2) Any person appointed as Director shall be—

(A) an established expert in the field of medical research, administration of medical research programs, or similar fields; and

(B) qualified to carry out the duties of the Office based on demonstrated experience and expertise.

(c) FUNCTIONS.—(1) The Director shall report to the Under Secretary for Health on matters relating to protections of human subjects in medical research projects of the Department under any applicable Federal law and regulation, the safety of employees involved in Department medical research programs, and suspected misconduct and impropriety in such programs. In carrying out the preceding sentence, the Director shall consult with employees of the Veterans Health Administration who are responsible for the management and conduct of Department medical research programs.

(2) The matters to be reported by the Director to the Under Secretary under paragraph (1) shall include allegations of research impropriety and misconduct by employees engaged in medical research programs of the Department.

(3)(A) When the Director determines that such a recommendation is warranted, the Director may recommend to the Under Secretary that a Department research activity be terminated, suspended, or restricted, in whole or in part.

(B) In a case in which the Director reasonably believes that activities of a medical research project of the Department place human subjects' lives or health at imminent risk, the Director shall direct that activities under that project be immediately suspended or, as appropriate and specified by the Director, be limited.

(d) GENERAL FUNCTIONS.—(1) The Director shall conduct periodic inspections and reviews, as the Director determines appropriate, of medical research programs of the Department. Such inspections and reviews shall include review of required documented assurances.

(2) The Director shall observe external accreditation activities conducted for accreditation of medical research programs conducted in facilities of the Department.

(3) The Director shall investigate allegations of research impropriety and misconduct in medical research projects of the Department.

(4) The Director shall submit to the Under Secretary for Health, the Secretary, and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on any suspected lapse, from whatever cause or causes, in protecting safety of human subjects and others, including employees, in medical research programs of the Department.

(5) The Director shall carry out such other duties as the Under Secretary for Health may require.

(e) SOURCE OF FUNDS.—Amounts for the activities of the Office, including its regional offices, shall be derived from amounts appropriated for the Veterans Health Administration for Medical Care.

(f) ANNUAL REPORT.—Not later than March 15 each year, the Director shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Office during the preceding calendar year. Each such report shall include, with respect to that year, the following:

(1) A summary of reviews of individual medical research programs of the Department completed by the Office.

(2) Directives and other communications issued by the Office to field activities of the Department.

(3) Results of any investigations undertaken by the Office during the reporting period consonant with the purposes of this section.

(4) Other information that would be of interest to those committees in oversight of the Department medical research program.

(g) MEDICAL RESEARCH.—For purposes of this section, the term ''medical research'' means medical research described in section 7303(a)(2) of this title.

(Added Pub. L. 108–170, title IV, § 401(a)(1), Dec. 6, 2003, 117 Stat. 2059.)

SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

PRIOR PROVISIONS

A prior subchapter II of this chapter consisting of sections 4121 to 4124, related to Regional Medical Education Centers, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See Prior Provisions notes set out under section 4110A of this title.

§ 7311. Quality assurance

(a) The Secretary shall—

(1) establish and conduct a comprehensive program to monitor and evaluate the quality of health care furnished by the Veterans Health Administration (hereinafter in this section referred to as the ''quality-assurance program''); and

(2) delineate the responsibilities of the Under Secretary for Health with respect to the quality-assurance program, including the duties prescribed in this section.

(b)(1) As part of the quality-assurance program, the Under Secretary for Health shall periodically evaluate—

(A) whether there are significant deviations in mortality and morbidity rates for surgical procedures performed by the Administration from prevailing national mortality and morbidity standards for similar procedures; and

(B) if there are such deviations, whether they indicate deficiencies in the quality of health care provided by the Administration.

(2) The evaluation under paragraph (1)(A) shall be made using the information compiled under subsection (c)(1). The evaluation under paragraph (1)(B) shall be made taking into account the factors described in subsection (c)(2)(B).

(3) If, based upon an evaluation under paragraph (1)(A), the Under Secretary for Health determines that there is a deviation referred to in that paragraph, the Under Secretary for Health shall explain the deviation in the report submitted under subsection (f).[1]

(c)(1) The Under Secretary for Health shall—

(A) determine the prevailing national mortality and morbidity standards for each type of surgical procedure performed by the Administration; and

(B) collect data and other information on mortality and morbidity rates in the Administration for each type of surgical procedure performed by the Administration and (with respect to each such procedure) compile the data and other information so collected—

[1] See References in Text note below.

(i) for each medical facility of the Department, in the case of cardiac surgery, heart transplant, and renal transplant programs; and

(ii) in the aggregate, for each other type of surgical procedure.

(2) The Under Secretary for Health shall—

(A) compare the mortality and morbidity rates compiled under paragraph (1)(B) with the national mortality and morbidity standards determined under paragraph (1)(A); and

(B) analyze any deviation between such rates and such standards in terms of the following:

(i) The characteristics of the respective patient populations.

(ii) The level of risk for the procedure involved, based on—

(I) patient age;

(II) the type and severity of the disease;

(III) the effect of any complicating diseases; and

(IV) the degree of difficulty of the procedure.

(iii) Any other factor that the Under Secretary for Health considers appropriate.

(d) Based on the information compiled and the comparisons, analyses, evaluations, and explanations made under subsections (b) and (c), the Under Secretary for Health, in the report under subsection (f),[1] shall make such recommendations with respect to quality assurance as the Under Secretary for Health considers appropriate.

(e)(1) The Secretary shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Administration to carry out its responsibilities under this section.

(2) The Inspector General of the Department shall allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality-assurance program.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 214; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(g)(5), Nov. 2, 1994, 108 Stat. 4687.)

REFERENCES IN TEXT

Subsection (f), referred to in subsecs. (b)(3) and (d), was repealed by Pub. L. 103–446, title XII, § 1201(g)(5), Nov. 2, 1994, 108 Stat. 4687.

AMENDMENTS

1994—Subsecs. (f), (g). Pub. L. 103–446 struck out subsecs. (f) and (g) which read as follows:

''(f)(1) Not later than February 1, 1991, the Under Secretary for Health shall submit to the Secretary a report on the experience through the end of the preceding fiscal year under the quality-assurance program carried out under this section.

''(2) Such report shall include—

''(A) the data and other information compiled and the comparisons, analyses, and evaluations made under subsections (b) and (c) with respect to the period covered by the report; and

''(B) recommendations under subsection (d).

''(g)(1) Not later than 60 days after receiving such report, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comment concerning the report that the Secretary considers appropriate.

''(2) A report submitted under paragraph (1) shall not be considered to be a record or document as described in section 5705(a) of this title.''

1992—Subsecs. (a) to (d), (f). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

EVALUATION OF DEPARTMENT OF VETERANS AFFAIRS NURSE MANAGED CLINICS

Pub. L. 107–135, title I, § 123, Jan. 23, 2002, 115 Stat. 2451, provided that:

''(a) EVALUATION.—The Secretary of Veterans Affairs shall carry out an evaluation of the efficacy of the nurse managed health care clinics of the Department of Veterans Affairs. The Secretary shall complete the evaluation not later than 18 months after the date of the enactment of this Act [Jan. 23, 2002].

''(b) CLINICS TO BE EVALUATED.—(1) In carrying out the evaluation under subsection (a), the Secretary shall consider nurse managed health care clinics, including primary care clinics and geriatric care clinics, located in three different geographic service areas of the Department.

''(2) If there are not nurse managed health care clinics located in three different geographic service areas as of the commencement of the evaluation, the Secretary shall—

''(A) establish nurse managed health care clinics in additional geographic service areas such that there are nurse managed health care clinics in three different geographic service areas for purposes of the evaluation; and

''(B) include such clinics, as so established, in the evaluation.

''(c) MATTERS TO BE EVALUATED.—In carrying out the evaluation under subsection (a), the Secretary shall address the following:

''(1) Patient satisfaction.

''(2) Provider experiences.

''(3) Cost of care.

''(4) Access to care, including waiting time for care.

''(5) The functional status of patients receiving care.

''(6) Any other matters the Secretary considers appropriate.

''(d) REPORT.—Not later than 18 months after the date of the enactment of this Act [Jan. 23, 2002], the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation carried out under subsection (a). The report shall address the matters specified in subsection (c) and include any other information, and any recommendations, that the Secretary considers appropriate. The Secretary shall provide a copy of the report to the National Commission on VA Nursing established under subtitle D [set out as a note under section 7451 of this title].''

QUALITY ASSURANCE ACTIVITIES

Section 104 of Pub. L. 102–405 provided that: ''Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in sections 201(a)(1) and 201(a)(3) of Public Law 100–322 [formerly set out as a note under former section 4151 of this title] (102 Stat. 508) shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.''

REGULATIONS FOR STANDARDS OF PERFORMANCE IN LABORATORIES

Pub. L. 102–139, title I, § 101, Oct. 28, 1991, 105 Stat. 742, provided that:

''(a) REGULATIONS FOR STANDARDS OF PERFORMANCE IN DEPARTMENT OF VETERANS AFFAIRS LABORATORIES.—(1) Within the 120-day period beginning on the date on which the Secretary of Health and Human Services promulgates final regulations to implement the standards required by section 353 of the Public Health Service Act (42 U.S.C. 263a), the Secretary of Veterans Affairs, in accordance with the Secretary's authority under title 38, United States Code, shall prescribe regulations to assure consistent performance by medical facility laboratories under the jurisdiction of the Secretary of valid and reliable laboratory examinations and other procedures. Such regulations shall be prescribed in consultation with the Secretary of Health and Human Services and shall establish standards equal to that applicable to other medical facility laboratories in accordance with the requirements of section 353(f) of the Public Health Service Act.

''(2) Such regulations—

''(A) may include appropriate provisions respecting waivers described in section 353(d) of such Act and accreditations described in section 353(e) of such Act; and

''(B) shall include appropriate provisions respecting compliance with such requirements.

''(b) REPORT.—Within the 180-day period beginning on the date on which the Secretary of Veterans Affairs prescribes regulations required by subsection (a), the Secretary shall submit to the appropriate committees of the Congress a report on those regulations.

''(c) DEFINITION.—As used in this section, the term 'medical facility laboratories' means facilities for the biological, micro-biological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other physical examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.''

§ 7312. Special medical advisory group

(a) The Secretary shall establish an advisory committee to be known as the special medical advisory group. The advisory group shall advise the Secretary, through the Under Secretary for Health, and the Under Secretary for Health directly, relative to the care and treatment of disabled veterans and other matters pertinent to the Administration.

(b) Members of the special medical advisory group shall be appointed by the Secretary upon the recommendation of the Under Secretary for Health. The special medical advisory group shall be composed of—

(1) members of the medical, dental, podiatric, optometric, and allied scientific professions;

(2) other individuals considered by the Under Secretary for Health to have experience pertinent to the mission of the Administration; and

(3) a disabled veteran.

(c) The special medical advisory group shall meet on a regular basis as prescribed by the Secretary. The number, terms of service, pay, and allowances of members of the advisory group shall be prescribed in accordance with existing law and regulations.

(d) Not later than February 1 of each year, the special medical advisory group shall submit to the Secretary and the Congress a report on the activities of the advisory group during the preceding fiscal year. No report shall be required under this subsection after December 31, 2004.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 215; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(e)(20), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 106–419, title IV, § 403(c)(5), Nov. 1, 2000, 114 Stat. 1864.)

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–419 inserted at end ''No report shall be required under this subsection after December 31, 2004.''

1994—Subsec. (d). Pub. L. 103–446 substituted ''the activities of the advisory group'' for ''the advisory groups activities''.

1992—Subsecs. (a), (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

§ 7313. Advisory committees: affiliated institutions

(a) In each case where the Secretary has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization for the training or education of health personnel, the Secretary shall establish an advisory committee to advise the Secretary and the Under Secretary for Health with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed. Such a committee may be a dean's committee, a medical advisory committee, or the like.

(b) Any such advisory committee may be established on an institution-wide, multi-disciplinary basis or on a regional basis whenever establishment on such a basis is found to be feasible.

(c) Members of each such advisory committee shall be appointed by the Secretary and shall include personnel of the Department (including appropriate representation from the full-time staff) and of the entity with which the Secretary has entered into the contract or agreement. The number of members, and terms of members, of each advisory committee shall be prescribed by the Secretary.

(d) The Secretary shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Department health-care facility be included in the membership of each policy-making committee at that facility. Such committees include: (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (a).

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 216; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

§ 7314. Geriatric research, education, and clinical centers

(a) The Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of this section, shall designate not more than 25 Department health-care facilities as the locations for centers of geriatric research, education, and clinical activities and

(subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this section.

(b) In designating locations for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall—

(1) designate each Department health-care facility that as of August 26, 1980, was operating a geriatric research, education, and clinical center unless (on the recommendation of the Under Secretary for Health) the Secretary determines that such facility does not meet the requirements of subsection (c) or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 (Public Law 96–330; 94 Stat. 1048) or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

(2) assure appropriate geographic distribution of such facilities.

(c) The Secretary may not designate a health-care facility as a location for a center under subsection (a) unless the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and the Secretary (upon the recommendation of the Under Secretary for Health) determines that the facility has (or may reasonably be anticipated to develop) each of the following:

(1) An arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders.

(2) An arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility.

(3) The ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts.

(4) A policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center.

(5) The capability to conduct effectively evaluations of the activities of such center.

(d)(1) In order to provide advice to assist the Secretary and the Under Secretary for Health in carrying out their responsibilities under this section, the Assistant Under Secretary for Health described in section 7306(b)(3) of this title shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this section.

(2) The membership of the panel shall consist of experts in the fields of geriatric and gerontological research, education, and clinical care. Members of the panel shall serve as consultants to the Department for a period of no longer than six months.

(3) The panel shall review each proposal submitted to the panel by the Assistant Under Secretary and shall submit its views on the relative scientific and clinical merit of each such proposal to the Assistant Under Secretary.

(4) The panel shall not be subject to the Federal Advisory Committee Act.

(e) Before providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subsection (b)(1), the Secretary shall assure that the center at each facility designated under such subsection is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

(f) There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established pursuant to subsection (a). The Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department medical care account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

(g) Activities of clinical and scientific investigation at each center established under subsection (a) shall be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 216; amended Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 102–585, title V, § 521, Nov. 4, 1992, 106 Stat. 4958; Pub. L. 103–446, title XII, §§ 1201(c)(4), 1202(b)(2), Nov. 2, 1994, 108 Stat. 4683, 4689.)

REFERENCES IN TEXT

The Veterans' Administration Health-Care Amendments of 1980, referred to in subsec. (b)(1), is Pub. L. 96–330, Aug. 26, 1980, 94 Stat. 1030. Title III of the Act amended former sections 4101 and 4103 of this title and enacted provisions set out as notes below and under former section 4101 of this title. For the purposes of title III, see section 301 of Pub. L. 96–330, set out below. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (d)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103–446, § 1202(b)(2), amended Pub. L. 102–83, § 4(a)(3), (4), to make it inapplicable to this section. See 1991 Amendment note below.

Subsec. (d)(1). Pub. L. 103–446, § 1201(c)(4)(A), substituted ''the Secretary and the Under Secretary for Health in carrying out'' for ''the Chief Medical Director and the Secretary to carry out'' and ''the Assistant Under Secretary for Health described in section 7306(b)(3)'' for ''the Assistant Chief Medical Director described in section 7306(b)(3)''.

Subsec. (d)(3). Pub. L. 103–446, § 1201(c)(4)(B), substituted ''Assistant Under Secretary'' for ''Assistant Chief Medical Director'' in two places.

1992—Subsecs. (a), (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

Subsec. (c). Pub. L. 102–585, § 521(1), inserted ''the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and'' after ''unless'' in introductory provisions.

Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in introductory provisions.

Subsec. (d). Pub. L. 102–585, § 521(3), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–585, § 521(2), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in two places.

Subsecs. (f), (g). Pub. L. 102–585, § 521(2), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

1991—Subsec. (b)(1). Pub. L. 102–83, § 4(a)(3), (4), which directed substitution of ''Department'' for ''Veterans' Administration'', was amended by Pub. L. 103–446, § 1202(b)(2), to make it inapplicable to this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(b) of Pub. L. 103–446 provided that the amendment made by that section is effective Aug. 6, 1991, and as if included in the enactment of Pub. L. 102–83.

CONGRESSIONAL DECLARATION OF PURPOSE IN CREATING CENTERS OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

Section 301 of title III of Pub. L. 96–330 provided that: ''The purposes of this title [see Tables for classification] are (1) to improve and expand the capability of Veterans' Administration [now Department of Veterans Affairs] health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.''

§ 7315. Geriatrics and Gerontology Advisory Committee

(a) The Secretary shall establish in the Veterans Health Administration a Geriatrics and Gerontology Advisory Committee (hereinafter in this section referred to as the ''Committee''). The membership of the Committee shall be appointed by the Secretary, upon the recommendation of the Under Secretary for Health, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans service organization. The Secretary, upon the recommendation of the Under Secretary for Health, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this section.

(b) The Committee shall—

(1) advise the Under Secretary for Health on all matters pertaining to geriatrics and gerontology;

(2) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on August 26, 1980), the ability of each center established under section 7314 of this title to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 (Public Law 96–330; 94 Stat. 1048);

(3) assess the capability of the Department to provide high quality geriatric services, extended services, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

(4) assess the current and projected needs of eligible older veterans for geriatric services, extended-care services, and other health-care services from the Department and its activities and plans designed to meet such needs; and

(5) perform such additional functions as the Secretary or Under Secretary for Health may direct.

(c)(1) The Committee shall submit to the Secretary, through the Under Secretary for Health, such reports as the Committee considers appropriate with respect to its findings and conclusions under subsection (b). Such reports shall include the following:

(A) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to section 7314 of this title.

(B) Assessments of the quality of the operations of such centers.

(C) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric services, extended-care services, and other health-care services.

(D) Assessments of and recommendations for correcting any deficiencies in the operations of such centers.

(E) Recommendations for such other geriatric services, extended-care services, and other health-care services as may be needed to meet the needs of older veterans.

(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Com-

mittee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 217; amended Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 102–405, title I, § 102, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1973, 1984; Pub. L. 103–446, title XII, §§ 1201(i)(9), 1202(b)(2), Nov. 2, 1994, 108 Stat. 4688, 4689; Pub. L. 107–330, title III, § 308(g)(13), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The Veterans' Administration Health-Care Amendments of 1980, referred to in subsec. (b)(2), is Pub. L. 96–330, Aug. 26, 1980, 94 Stat. 1030. Title III of the Act amended former sections 4101 and 4103 of this title and enacted provisions set out as notes under former section 4101 of this title. For the purposes of title III, see section 301 of Pub. L. 96–330, set out as a note under section 7314 of this title. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 101 of this title and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–330 inserted ''Veterans Health'' before ''Administration'' in first sentence.

1994—Subsec. (b)(2). Pub. L. 103–446, § 1201(i)(9), which directed substitution of ''Veterans' Administration'' for ''Department'', could not be executed because ''Department'' did not appear subsequent to execution of amendment by Pub. L. 103–446, § 1202(b)(2). See below.

Pub. L. 103–446, § 1202(b)(2), amended Pub. L. 102–83, § 4(a)(3), (4), to make it inapplicable to this section. See 1991 Amendment note below.

1992—Subsecs. (a), (b)(1), (5), (c)(1). Pub. L. 102–405, § 302(c)(1), substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

Subsec. (c)(2). Pub. L. 102–405, § 102, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Not later than 90 days after receipt of a report submitted under paragraph (1), the Secretary shall transmit the report, together with the Secretary's comments and recommendations thereon, to the appropriate committees of the Congress.''

1991—Subsec. (b)(2). Pub. L. 102–83, § 4(a)(3), (4), which directed substitution of ''Department'' for ''Veterans' Administration'', was amended by Pub. L. 103–446, § 1202(b)(2), to make it inapplicable to this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(b) of Pub. L. 103–446 provided that the amendment made by that section is effective Aug. 6, 1991, and as if included in the enactment of Pub. L. 102–83.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7316. Malpractice and negligence suits: defense by United States

(a)(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a health care employee of the Administration in furnishing health care or treatment while in the exercise of that employee's duties in or for the Administration shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the health care employee (or employee's estate) whose act or omission gave rise to such claim.

(2) For purposes of paragraph (1), the term ''health care employee of the Administration'' means a physician, dentist, podiatrist, chiropractor, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (such as medical and dental technicians, nursing assistants, and therapists), or other supporting personnel.

(b) The Attorney General shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate superior or to whomever was designated by the Secretary to receive such papers and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

(c) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's employment in or for the Administration at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28 and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the employee whose act or omission gave rise to the suit was not acting within the scope of such person's office or employment, the case shall be remanded to the State court.

(d) The Attorney General may compromise or settle any claim asserted in such civil action or

proceeding in the manner provided in section 2677 of title 28, and with the same effect.

(e) The Secretary may, to the extent the Secretary considers appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of this section apply (as described in subsection (a)), for damage for personal injury or death, or for property damage, negligently caused by such person while furnishing medical care or treatment (including the conduct of clinical studies or investigations) in the exercise of such person's duties in or for the Administration, if such person is assigned to a foreign country, detailed to State or political division thereof, or is acting under any other circumstances which would preclude the remedies of an injured third person against the United States, provided by sections 1346(b) and 2672 of title 28, for such damage or injury.

(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Administration.

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 219; amended Pub. L. 108–170, title III, § 302(e), Dec. 6, 2003, 117 Stat. 2058.)

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–170, § 302(e)(1), substituted ''health'' for ''medical'' in three places in concluding provisions.

Subsec. (a)(2). Pub. L. 108–170, § 302(e)(2), substituted ''health'' for ''medical'' the first place it appeared and inserted ''chiropractor,'' after ''podiatrist,''.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–170, title III, § 302(h), Dec. 6, 2003, 117 Stat. 2058, provided that: ''The amendments made by this section [amending this section and sections 7401 to 7404, 7409, and 7421 of this title] shall take effect at the end of the 180–day period beginning on the date of the enactment of this Act [Dec. 6, 2003].''

§ 7317. Hazardous research projects: indemnification of contractors

(a)(1) With the approval of the Secretary, any contract or research authorized by section 7303 of this title, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor as provided in paragraph (2), but only to the extent that the liability, loss, or damage concerned arises out of the direct performance of the contract and to the extent not covered by the financial protection required under subsection (e).

(2) Indemnity under paragraph (1) is indemnity against either or both of the following:

(A) Liability (including reasonable expenses of litigation or settlement) to third persons, except liability under State or Federal workers' injury compensation laws to employees of the contractor employed at the site of and in connection with the contract for which indemnification is granted, for death, bodily injury, or loss of or damage to property, from a risk that the contract defines as unusually hazardous.

(B) Loss of or damage to property of the contractor from a risk that the contract defines as unusually hazardous.

(b) A contract that provides for indemnification in accordance with subsection (a) must also provide for—

(1) notice to the United States of any claim or suit against the contractor for death, bodily injury, or loss of or damage to property; and

(2) control of or assistance in the defense by the United States, at its election, of any such suit or claim for which indemnification is provided hereunder.

(c) A payment may not be made under subsection (a) unless the Secretary certifies that the amount is just and reasonable.

(d) Upon approval by the Secretary, payments under subsection (a) may be made from—

(1) funds obligated for the performance of the contract concerned;

(2) funds available for research or development or both, and not otherwise obligated; or

(3) funds appropriated for those payments.

(e) Each contractor which is a party to an indemnification agreement under subsection (a) shall have and maintain financial protection of such type and in such amounts as the Secretary shall require to cover liability to third persons and loss of or damage to the contractor's property. The amount of financial protection required shall be the maximum amount of insurance available from private sources, except that the Secretary may establish a lesser amount, taking into consideration the cost and terms of private insurance. Such financial protection may include private insurance, private contractual indemnities, self-insurance, other proof of financial responsibility, or a combination of such measures.

(f) In administering the provisions of this section, the Secretary may use the facilities and services of private insurance organizations and may contract to pay a reasonable compensation therefor. Any contract made under the provisions of this section may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5), upon a showing by the Secretary that advertising is not reasonably practicable, and advance payments may be made under any such contract.

(g) The authority to indemnify contractors under this section does not create any rights in third persons which would not otherwise exist by law.

(h) Funds appropriated to carry out this section shall remain available until expended.

(i) In this section, the term ''contractor'' includes subcontractors of any tier under a contract containing an indemnification provision pursuant to subsection (a).

(Added Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 220.)

§ 7318. National Center for Preventive Health

(a)(1) The Under Secretary for Health shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereinafter in this section referred to as the ''Center''). The Center shall be located at a Department health care facility.

(2) The head of the Center is the Director of Preventive Health (hereinafter in this section referred to as the ''Director'').

(3) The Under Secretary for Health shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

(b) The purposes of the Center are the following:

(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect to the provision, evaluation, and improvement of preventive health services.

(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

(c) In carrying out the purposes of the Center, the Director shall do the following:

(1) Develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to—

(A) the on-going provision of regularly-furnished services; and

(B) patient education and screening programs carried out throughout the Administration.

(2) Develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services.

(3) In order to encourage the effective provision of preventive health services by Veterans Health Administration personnel—

(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the Administration.

(4) Facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Under Secretary for Health and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services.

(5) Provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

(d) There is authorized to be appropriated $1,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year for the purpose of permitting the National Center for Preventive Health to carry out research, clinical, educational, and administrative activities under this section. Such activities shall be considered to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

(e) In this section, the term ''preventive health services'' has the meaning given such term in section 1701(9) of this title.

(Added Pub. L. 102–585, title V, § 511(a)(1), Nov. 4, 1992, 106 Stat. 4955; amended Pub. L. 103–446, title XII, § 1201(c)(5), Nov. 2, 1994, 108 Stat. 4683.)

AMENDMENTS

1994—Subsecs. (a)(1), (3), (c)(4). Pub. L. 103–446 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

SELECTION OF FACILITY AT WHICH CENTER TO BE ESTABLISHED

Section 511(c) of Pub. L. 102–585, as amended by Pub. L. 103–446, title XII, § 1202(e)(2), Nov. 2, 1994, 108 Stat. 4689, provided that: ''In order to establish the National Center for Preventive Health pursuant to section 7318 of title 38, United States Code, as added by subsection (a), the Under Secretary for Health of the Department of Veterans Affairs shall solicit proposals from Department health care facilities to establish the center. The Under Secretary for Health shall establish such center at the facility or facilities which the Under Secretary for Health determines, on the basis of a review and analysis of such proposals, would most effectively carry out the purposes set forth in subsection (b) of such section.''

§ 7319. Mammography quality standards

(a) A mammogram may not be performed at a Department facility unless that facility is accredited for that purpose by a private nonprofit organization designated by the Secretary. An organization designated by the Secretary under this subsection shall meet the standards for accrediting bodies established under subsection (e) of section 354 of the Public Health Service Act (42 U.S.C. 263b).

(b) The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe quality assurance and quality control standards relating to the performance and interpretation of mammograms and use of mammogram equipment and facilities of the Department of Veterans Affairs consistent with the requirements of section 354(f)(1) of the Public Health Service Act. Such standards shall be no less stringent than the standards prescribed by the Secretary of Health and Human Services under section 354(f) of the Public Health Service Act.

(c)(1) The Secretary, to ensure compliance with the standards prescribed under subsection (b), shall provide for an annual inspection of the equipment and facilities used by and in Department health care facilities for the performance of mammograms. Such inspections shall be carried out in a manner consistent with the inspection of certified facilities by the Secretary of Health and Human Services under section 354(g) of the Public Health Service Act.

(2) The Secretary may not provide for an inspection under paragraph (1) to be performed by a State agency.

(d) The Secretary shall ensure that mammograms performed for the Department under contract with any non-Department facility or provider conform to the quality standards prescribed by the Secretary of Health and Human

Services under section 354 of the Public Health Service Act.

(e) For the purposes of this section, the term ''mammogram'' has the meaning given such term in paragraph (5) of section 354(a) of the Public Health Service Act.

(Added Pub. L. 104–262, title III, § 321(a)(1), Oct. 9, 1996, 110 Stat. 3195.)

REFERENCES IN TEXT

Section 354 of the Public Health Service Act, referred to in text, is section 354 of act July 1, 1944, ch. 373, which is classified to section 263b of Title 42, The Public Health and Welfare.

DEADLINE FOR PRESCRIBING STANDARDS

Section 321(b) of Pub. L. 104–262 provided that: ''The Secretary of Veterans Affairs shall prescribe standards under subsection (b) of section 7319 of title 38, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act [Oct. 9, 1996].''

IMPLEMENTATION REPORT

Section 321(c) of Pub. L. 104–262 provided that: ''The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's implementation of section 7319 of title 38, United States Code, as added by subsection (a). The report shall be submitted not later than 120 days after the date of the enactment of this Act [Oct. 9, 1996].''

§ 7320. Centers for mental illness research, education, and clinical activities

(a) The purpose of this section is to provide for the improvement of the provision of health-care services and related counseling services to eligible veterans suffering from mental illness (especially mental illness related to service-related conditions) through—

(1) the conduct of research (including research on improving mental health service facilities of the Department and on improving the delivery of mental health services by the Department);

(2) the education and training of health care personnel of the Department; and

(3) the development of improved models and systems for the furnishing of mental health services by the Department.

(b)(1) The Secretary shall establish and operate centers for mental illness research, education, and clinical activities. Such centers shall be established and operated by collaborating Department facilities as provided in subsection (c)(1). Each such center shall function as a center for—

(A) research on mental health services;

(B) the use by the Department of specific models for furnishing services to treat serious mental illness;

(C) education and training of health-care professionals of the Department; and

(D) the development and implementation of innovative clinical activities and systems of care with respect to the delivery of such services by the Department.

(2) The Secretary shall, upon the recommendation of the Under Secretary for Health, designate the centers under this section. In making such designations, the Secretary shall ensure that the centers designated are located in various geographic regions of the United States. The Secretary may designate a center under this section only if—

(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

(B) the Secretary makes the finding described in subsection (d); and

(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

(3) Not more than five centers may be designated under this section.

(4) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

(c) A proposal submitted for the designation of a center under this section shall—

(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities in the same geographic area which have a mission centered on care of the mentally ill and a Department facility in that area which has a mission of providing tertiary medical care;

(2) provide that no less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating facility or facilities that have a mission centered on care of the mentally ill; and

(3) provide for a governance arrangement between the collaborating Department facilities which ensures that the center will be established and operated in a manner aimed at improving the quality of mental health care at the collaborating facility or facilities which have a mission centered on care of the mentally ill.

(d) The finding referred to in subsection (b)(2)(B) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

(1) An arrangement with an accredited medical school that provides education and training in psychiatry and with which one or more of the participating Department facilities is affiliated under which medical residents receive education and training in psychiatry through regular rotation through the participating Department facilities so as to provide such residents with training in the diagnosis and treatment of mental illness.

(2) An arrangement with an accredited graduate program of psychology under which students receive education and training in clinical, counseling, or professional psychology through regular rotation through the participating Department facilities so as to provide such students with training in the diagnosis and treatment of mental illness.

(3) An arrangement under which nursing, social work, counseling, or allied health personnel receive training and education in mental health care through regular rotation through the participating Department facilities.

(4) The ability to attract scientists who have demonstrated achievement in research—

(A) into the evaluation of innovative approaches to the design of mental health services; or

(B) into the causes, prevention, and treatment of mental illness.

(5) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of mental health services provided by the Department at or through individual facilities.

(e)(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

(2) The panel shall consist of experts in the fields of mental health research, education and training, and clinical care. Members of the panel shall serve as consultants to the Department.

(3) The panel shall review each proposal submitted to the panel by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(f) Clinical and scientific investigation activities at each center established under this section—

(1) may compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account; and

(2) shall receive priority in the award of funding from such account insofar as funds are awarded to projects and activities relating to mental illness.

(g) The Under Secretary for Health shall ensure that at least three centers designated under this section emphasize research into means of improving the quality of care for veterans suffering from mental illness through the development of community-based alternatives to institutional treatment for such illness.

(h) The Under Secretary for Health shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Veterans Health Administration. Such dissemination shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

(i) The official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for supervising the operation of the centers established pursuant to this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

(j)(1) There are authorized to be appropriated to the Department of Veterans Affairs for the basic support of the research and education and training activities of centers established pursuant to this section amounts as follows:

(A) $3,125,000 for fiscal year 1998.

(B) $6,250,000 for each of fiscal years 1999 through 2001.

(2) In addition to funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department of Veterans Affairs medical care account and the Department of Veterans Affairs medical and prosthetics research account such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.

(Added Pub. L. 104–262, title III, § 334(a)(1), Oct. 9, 1996, 110 Stat. 3200.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (e)(4), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

ANNUAL REPORTS ON AND DESIGNATION OF CENTERS

Section 334(b), (c) of Pub. L. 104–262 provided that:

''(b) ANNUAL REPORTS.—Not later than February 1 of each of 1999, 2000, 2001, and 2002, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the centers for mental illness research, education, and clinical activities established pursuant to section 7320 of title 38, United States Code (as added by subsection (a)). Each such report shall include the following:

''(1) A description of the activities carried out at each center and the funding provided for such activities.

''(2) A description of the advances made at each of the participating facilities of the center in research, education and training, and clinical activities relating to mental illness in veterans.

''(3) A description of the actions taken by the Under Secretary for Health pursuant to subsection (h) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

''(4) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

''(c) IMPLEMENTATION.—The Secretary of Veterans Affairs shall designate at least one center under section 7320 of title 38, United States Code, not later than January 1, 1998.''

§ 7321. Committee on Care of Severely Chronically Mentally Ill Veterans

(a) The Secretary, acting through the Under Secretary for Health, shall establish in the Veterans Health Administration a Committee on Care of Severely Chronically Mentally Ill Veterans. The Under Secretary shall appoint employees of the Department with expertise in the care of the chronically mentally ill to serve on the committee.

(b) The committee shall assess, and carry out a continuing assessment of, the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of mentally ill veterans whose mental illness is severe and chronic and who are eligible for health care furnished by the Department, including the needs of such veterans who are women. In carrying out that responsibility, the committee shall—

(1) evaluate the care provided to such veterans through the Veterans Health Administration;

(2) identify systemwide problems in caring for such veterans in facilities of the Veterans Health Administration;

(3) identify specific facilities within the Veterans Health Administration at which program enrichment is needed to improve treatment and rehabilitation of such veterans; and

(4) identify model programs which the committee considers to have been successful in the treatment and rehabilitation of such veterans and which should be implemented more widely in or through facilities of the Veterans Health Administration.

(c) The committee shall—

(1) advise the Under Secretary regarding the development of policies for the care and rehabilitation of severely chronically mentally ill veterans; and

(2) make recommendations to the Under Secretary—

(A) for improving programs of care of such veterans at specific facilities and throughout the Veterans Health Administration;

(B) for establishing special programs of education and training relevant to the care of such veterans for employees of the Veterans Health Administration;

(C) regarding research needs and priorities relevant to the care of such veterans; and

(D) regarding the appropriate allocation of resources for all such activities.

(d)(1) Not later than April 1, 1997, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(A) A list of the members of the committee.

(B) The assessment of the Under Secretary for Health, after review of the initial findings of the committee, regarding the capability of the Veterans Health Administration, on a systemwide and facility-by-facility basis, to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

(C) The plans of the committee for further assessments.

(D) The findings and recommendations made by the committee to the Under Secretary for Health and the views of the Under Secretary on such findings and recommendations.

(E) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied toward improving the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

(2) Not later than June 1 of each year through 2008, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.

(Added Pub. L. 104–262, title III, § 335(a), Oct. 9, 1996, 110 Stat. 3204; amended Pub. L. 106–419, title IV, § 402(f), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 108–170, title IV, § 405(c), Dec. 6, 2003, 117 Stat. 2063.)

AMENDMENTS

2003—Subsec. (d)(2). Pub. L. 108–170 substituted ''June 1 of each year through 2008'' for ''February 1, 1998, and February 1 of each of the six following years''.

2000—Subsec. (d)(2). Pub. L. 106–419, substituted ''six following years'' for ''three following years''.

§ 7322. Breast cancer mammography policy

(a) The Under Secretary for Health shall develop a national policy for the Veterans Health Administration on mammography screening for veterans.

(b) The policy developed under subsection (a) shall—

(1) specify standards of mammography screening;

(2) provide recommendations with respect to screening, and the frequency of screening, for—

(A) women veterans who are over the age of 39; and

(B) veterans, without regard to age, who have clinical symptoms, risk factors, or family history of breast cancer; and

(3) provide for clinician discretion.

(Added Pub. L. 105–114, title II, § 208(a)(1), Nov. 21, 1997, 111 Stat. 2289.)

EFFECTIVE DATE

Section 208(b) of Pub. L. 105–114 provided that: ''The Secretary of Veterans Affairs shall develop the national policy on mammography screening required by section 7322 of title 38, United States Code, as added by subsection (a), and shall furnish such policy in a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than 60 days after the date of the enactment of this Act [Nov. 21, 1997]. Such policy shall not take effect before the expiration of 30 days after the date of its submission to those committees.''

SENSE OF CONGRESS

Section 208(c) of Pub. L. 105–114 provided that: ''It is the sense of Congress that the policy developed under section 7322 of title 38, United States Code, as added by subsection (a), shall be in accordance with the guide-

lines endorsed by the Secretary of Health and Human Services and the Director of the National Institutes of Health.''

§ 7323. Required consultations with nurses

The Under Secretary for Health shall ensure that—

(1) the director of a geographic service area, in formulating policy relating to the provision of patient care, shall consult regularly with a senior nurse executive or senior nurse executives; and

(2) the director of a medical center shall include a registered nurse as a member of any committee used at that medical center to provide recommendations or decisions on medical center operations or policy affecting clinical services, clinical outcomes, budget, or resources.

(Added Pub. L. 106–419, title II, § 201(b)(1), Nov. 1, 2000, 114 Stat. 1840.)

§ 7324. Annual report on use of authorities to enhance retention of experienced nurses

(a) ANNUAL REPORT.—Not later than January 31 each year, the Secretary, acting through the Under Secretary for Health, shall submit to Congress a report on the use during the preceding year of authorities for purposes of retaining experienced nurses in the Veterans Health Administration, as follows:

(1) The authorities under chapter 76 of this title.

(2) The authority under VA Directive 5102.1, relating to the Department of Veterans Affairs nurse qualification standard, dated November 10, 1999, or any successor directive.

(3) Any other authorities available to the Secretary for those purposes.

(b) REPORT ELEMENTS.—Each report under subsection (a) shall specify for the period covered by such report, for each Department medical facility and for each geographic service area of the Department, the following:

(1) The number of waivers requested under the authority referred to in subsection (a)(2), and the number of waivers granted under that authority, to promote to the Nurse II grade or Nurse III grade under the Nurse Schedule under section 7404(b)(1) of this title any nurse who has not completed a baccalaureate degree in nursing in a recognized school of nursing, set forth by age, race, and years of experience of the individuals subject to such waiver requests and waivers, as the case may be.

(2) The programs carried out to facilitate the use of nursing education programs by experienced nurses, including programs for flexible scheduling, scholarships, salary replacement pay, and on-site classes.

(Added Pub. L. 107–135, title I, § 125(a)(1), Jan. 23, 2002, 115 Stat. 2452.)

INITIAL REPORT

Pub. L. 107–135, title I, § 125(b), Jan. 23, 2002, 115 Stat. 2453, provided that: ''The initial report required under section 7324 of title 38, United States Code, as added by subsection (a), shall be submitted to the National Commission on VA Nursing established under subtitle D [set out as a note under section 7451 of this title] as well as to Congress.''

§ 7325. Medical emergency preparedness centers

(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary shall establish four medical emergency preparedness centers in accordance with this section. Each such center shall be established at a Department medical center and shall be staffed by Department employees.

(2) The Under Secretary for Health shall be responsible for supervising the operation of the centers established under this section. The Under Secretary shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

(3) The Under Secretary shall carry out the Under Secretary's functions under paragraph (2) in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(b) MISSION.—The mission of the centers shall be as follows:

(1) To carry out research on, and to develop methods of detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(2) To provide education, training, and advice to health care professionals, including health care professionals outside the Veterans Health Administration, through the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) or through interagency agreements entered into by the Secretary for that purpose.

(3) In the event of a disaster or emergency referred to in section 1785(b) of this title, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the disaster or emergency.

(c) SELECTION OF CENTERS.—(1) The Secretary shall select the sites for the centers on the basis of a competitive selection process. The Secretary may not designate a site as a location for a center under this section unless the Secretary makes a finding under paragraph (2) with respect to the proposal for the designation of such site. To the maximum extent practicable, the Secretary shall ensure the geographic dispersal of the sites throughout the United States. Any such center may be a consortium of efforts of more than one medical center.

(2) A finding by the Secretary referred to in paragraph (1) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendations of the Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions, that the facility or facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

(A) An arrangement with a qualifying medical school and a qualifying school of public

health (or a consortium of such schools) under which physicians and other persons in the health field receive education and training through the participating Department medical facilities so as to provide those persons with training in the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses induced by exposures to chemical and biological substances, radiation, and incendiary or other explosive weapons or devices.

(B) An arrangement with a graduate school specializing in epidemiology under which students receive education and training in epidemiology through the participating Department facilities so as to provide such students with training in the epidemiology of contagious and infectious diseases and chemical and radiation poisoning in an exposed population.

(C) An arrangement under which nursing, social work, counseling, or allied health personnel and students receive training and education in recognizing and caring for conditions associated with exposures to toxins through the participating Department facilities.

(D) The ability to attract scientists who have made significant contributions to the development of innovative approaches to the detection, diagnosis, prevention, or treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(3) For purposes of paragraph (2)(A)—

(A) a qualifying medical school is an accredited medical school that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated; and

(B) a qualifying school of public health is an accredited school of public health that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated.

(d) RESEARCH ACTIVITIES.—Each center shall conduct research on improved medical preparedness to protect the Nation from threats in the area of that center's expertise. Each center may seek research funds from public and private sources for such purpose.

(e) DISSEMINATION OF RESEARCH PRODUCTS.—(1) The Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section is made available, as appropriate, to health-care providers in the United States. Dissemination of such information shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

(2) The Secretary shall ensure that the work of the centers is conducted in close coordination with other Federal departments and agencies and that research products or other information of the centers shall be coordinated and shared with other Federal departments and agencies.

(f) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure that the work of each center is carried out—

(1) in close coordination with the Department of Defense, the Department of Health and Human Services, and other departments, agencies, and elements of the Government charged with coordination of plans for United States homeland security; and

(2) after taking into consideration applicable recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)) or any other joint interagency advisory group or committee designated by the President or the President's designee to coordinate Federal research on weapons of mass destruction.

(g) ASSISTANCE TO OTHER AGENCIES.—The Secretary may provide assistance requested by appropriate Federal, State, and local civil and criminal authorities in investigations, inquiries, and data analyses as necessary to protect the public safety and prevent or obviate biological, chemical, or radiological threats.

(h) DETAIL OF EMPLOYEES FROM OTHER AGENCIES.—Upon approval by the Secretary, the Director of a center may request the temporary assignment or detail to the center, on a nonreimbursable basis, of employees from other departments and agencies of the United States who have expertise that would further the mission of the center. Any such employee may be so assigned or detailed on a nonreimbursable basis pursuant to such a request.

(i) FUNDING.—(1) Amounts appropriated for the activities of the centers under this section shall be appropriated separately from amounts appropriated for the Department for medical care.

(2) In addition to funds appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines appropriate to carry out the purposes of this section. Any determination by the Under Secretary under the preceding sentence shall be made in consultation with the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions.

(3) There are authorized to be appropriated for the centers under this section $20,000,000 for each of fiscal years 2003 through 2007.

(Added Pub. L. 107–287, § 2(a)(1), Nov. 7, 2002, 116 Stat. 2024.)

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of

the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(5), 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.

PEER REVIEW FOR DESIGNATION OF CENTERS

Pub. L. 107–287, § 2(b), Nov. 7, 2002, 116 Stat. 2027, provided that:

''(1) In order to assist the Secretary of Veterans Affairs and the Under Secretary of Veterans Affairs for Health in selecting sites for centers under section 7325 of title 38, United States Code, as added by subsection (a), the Under Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of such centers. The peer review panel shall be established in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

''(2) The peer review panel shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of patients exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs.

''(3) The panel shall review each proposal submitted to the panel by the officials referred to in paragraph (1) and shall submit to the Under Secretary for Health its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

''(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''

§ 7326. Education and training programs on medical response to consequences of terrorist activities

(a) EDUCATION PROGRAM.—The Secretary shall carry out a program to develop and disseminate a series of model education and training programs on the medical responses to the consequences of terrorist activities.

(b) IMPLEMENTING OFFICIAL.—The program shall be carried out through the Under Secretary for Health, in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(c) CONTENT OF PROGRAMS.—The education and training programs developed under the program shall be modelled after programs established at the F. Edward Hebert School of Medicine of the Uniformed Services University of the Health Sciences and shall include, at a minimum, training for health care professionals in the following:

(1) Recognition of chemical, biological, radiological, incendiary, or other explosive agents, weapons, or devices that may be used in terrorist activities.

(2) Identification of the potential symptoms of exposure to those agents.

(3) Understanding of the potential long-term health consequences, including psychological effects, resulting from exposure to those agents, weapons, or devices.

(4) Emergency treatment for exposure to those agents, weapons, or devices.

(5) An appropriate course of followup treatment, supportive care, and referral.

(6) Actions that can be taken while providing care for exposure to those agents, weapons, or devices to protect against contamination, injury, or other hazards from such exposure.

(7) Information on how to seek consultative support and to report suspected or actual use of those agents.

(d) POTENTIAL TRAINEES.—In designing the education and training programs under this section, the Secretary shall ensure that different programs are designed for health-care professionals in Department medical centers. The programs shall be designed to be disseminated to health professions students, graduate health and medical education trainees, and health practitioners in a variety of fields.

(e) CONSULTATION.—In establishing education and training programs under this section, the Secretary shall consult with appropriate representatives of accrediting, certifying, and coordinating organizations in the field of health professions education.

(Added Pub. L. 107–287, § 3(a)(1), Nov. 7, 2002, 116 Stat. 2027.)

IMPLEMENTATION

Pub. L. 107–287, § 3(b), Nov. 7, 2002, 116 Stat. 2028, provided that: ''The Secretary of Veterans Affairs shall implement section 7326 of title 38, United States Code, as added by subsection (a), not later than the end of the 90-day period beginning on the date of the enactment of this Act [Nov. 7, 2002].''

§ 7327. Centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries

(a) PURPOSE.—The purpose of this section is to provide for the improvement of the provision of health care services and related rehabilitation and education services to eligible veterans suffering from complex multi-trauma associated with combat injuries through—

(1) the development of improved models and systems for the furnishing by the Department of health care, rehabilitation, and education services to veterans;

(2) the conduct of research to support the provision of such services in accordance with the most current evidence on multi-trauma injuries; and

(3) the education and training of health care personnel of the Department with respect to the provision of such services.

(b) DESIGNATION OF CENTERS.—(1) The Secretary shall designate an appropriate number of cooperative centers for clinical care, consultation, research, and education activities on combat injuries.

(2) Each center designated under paragraph (1) shall function as a center for—

(A) research on the long-term effects of injuries sustained as a result of combat in order to support the provision of services for such injuries in accordance with the most current evidence on complex multi-trauma;

(B) the development of rehabilitation methodologies for treating individuals with complex multi-trauma; and

(C) the continuous and consistent coordination of care from the point of referral throughout the rehabilitation process and ongoing follow-up after return to home and community.

(3) The Secretary shall designate one of the centers designated under paragraph (1) as the lead center for activities referred to in that paragraph. As the lead center for such activities, such center shall—

(A) develop and provide periodic review of research priorities, and implement protocols, to ensure that projects contribute to the activities of the centers designated under paragraph (1);

(B) oversee the coordination of the professional and technical activities of such centers to ensure the quality and validity of the methodologies and statistical services for research project leaders;

(C) develop and ensure the deployment of an efficient and cost-effective data management system for such centers;

(D) develop and distribute educational materials and products to enhance the evaluation and care of individuals with combat injuries by medical care providers of the Department who are not specialized in the assessment and care of complex multi-trauma;

(E) develop educational materials for individuals suffering from combat injuries and for their families; and

(F) serve as a resource for the clinical and research infrastructure of such centers by disseminating clinical outcomes and research findings to improve clinical practice.

(4) The Secretary shall designate centers under paragraph (1) upon the recommendation of the Under Secretary for Health.

(5) The Secretary may designate a center under paragraph (1) only if the center meets the requirements of subsection (c).

(c) REQUIREMENTS FOR CENTERS.—To be designated as a center under this section, a facility shall—

(1) be a regional lead center for the care of traumatic brain injury;

(2) be located at a tertiary care medical center and have on-site availability of primary and subspecialty medical services relating to complex multi-trauma;

(3) have, or have the capacity to develop, the capability of managing impairments associated with combat injuries;

(4) be affiliated with a school of medicine;

(5) have, or have experience with, participation in clinical research trials;

(6) provide amputation care and rehabilitation;

(7) have pain management programs;

(8) provide comprehensive brain injury rehabilitation; and

(9) provide comprehensive general rehabilitation.

(d) ADDITIONAL RESOURCES.—The Secretary shall provide each center designated under this section such resources as the Secretary determines to be required by such center to achieve adequate capability of managing individuals with complex multi-trauma, including—

(1) the upgrading of blind rehabilitation services by employing or securing the services of blind rehabilitation specialists;

(2) employing or securing the services of occupational therapists with blind rehabilitation training;

(3) employing or securing the services of additional mental health services providers; and

(4) employing or securing additional rehabilitation nursing staff to meet care needs.

(e) COOPERATION WITH DEPARTMENT OF DEFENSE.—(1) The Secretary of Veterans Affairs may assist the Secretary of Defense in the care of members of the Armed Forces with complex multi-trauma at military treatment facilities by—

(A) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, certified rehabilitation registered nurses of the Department of Veterans Affairs to such facilities to assess and coordinate the care of such members; and

(B) making available, in a manner that the Secretary of Veterans Affairs considers appropriate, blind rehabilitation specialists of the Department of Veterans Affairs to such facilities to consult with the medical staff of such facilities on the special needs of such members who have visual impairment as a consequence of combat injury.

(2) Assistance shall be provided under this subsection through agreements for the sharing of health-care resources under section 8111 of this title.

(f) AWARD OF FUNDING.—Centers designated under this section may compete for the award of funding from amounts appropriated for the Department for medical and prosthetics research.

(g) DISSEMINATION OF INFORMATION.—(1) The Under Secretary for Health shall ensure that information produced by the centers designated under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Administration.

(2) Information shall be disseminated under this subsection through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means.

(h) NATIONAL OVERSIGHT.—The Under Secretary for Health shall designate an appropriate officer to oversee the operation of the centers designated under this section and provide for periodic evaluation of the centers.

(i) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Department of Veterans Affairs for the centers designated under this section amounts as follows:

(A) $7,000,000 for fiscal year 2005.

(B) $8,000,000 for each of fiscal years 2006 through 2008.

(2) In addition to amounts authorized to be appropriated by paragraph (1) for a fiscal year, the Under Secretary for Health may allocate to each center designated under this section, from other funds authorized to be appropriated for such fiscal year for the Department generally for medical and for medical and prosthetic research, such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.

(Added Pub. L. 108–422, title III, § 302(a)(1), Nov. 30, 2004, 118 Stat. 2383.)

DESIGNATION OF CENTERS

Pub. L. 108–422, title III, § 302(b), Nov. 30, 2004, 118 Stat. 2385, provided that: ''The Secretary of Veterans Affairs shall designate the centers for research, education, and clinical activities on complex multi-trauma associated with combat injuries required by section 7327 of title 38, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act [Nov. 30, 2004].''

§ 7328. Medical preparedness centers

(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary shall establish four medical emergency preparedness centers in accordance with this section. Each such center shall be established at a Department medical center and shall be staffed by Department employees.

(2) The Under Secretary for Health shall be responsible for supervising the operation of the centers established under this section. The Under Secretary shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

(3) The Under Secretary shall carry out the Under Secretary's functions under paragraph (2) in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

(b) MISSION.—The mission of the centers shall be as follows:

(1) To carry out research on, and to develop methods of detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(2) To provide education, training, and advice to health care professionals, including health care professionals outside the Veterans Health Administration, through the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) or through interagency agreements entered into by the Secretary for that purpose.

(3) In the event of a disaster or emergency referred to in section 1785(b) of this title, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the disaster or emergency.

(c) SELECTION OF CENTERS.—(1) The Secretary shall select the sites for the centers on the basis of a competitive selection process. The Secretary may not designate a site as a location for a center under this section unless the Secretary makes a finding under paragraph (2) with respect to the proposal for the designation of such site. To the maximum extent practicable, the Secretary shall ensure the geographic dispersal of the sites throughout the United States. Any such center may be a consortium of efforts of more than one medical center.

(2) A finding by the Secretary referred to in paragraph (1) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendations of the Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions, that the facility or facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

(A) An arrangement with a qualifying medical school and a qualifying school of public health (or a consortium of such schools) under which physicians and other persons in the health field receive education and training through the participating Department medical facilities so as to provide those persons with training in the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses induced by exposures to chemical and biological substances, radiation, and incendiary or other explosive weapons or devices.

(B) An arrangement with a graduate school specializing in epidemiology under which students receive education and training in epidemiology through the participating Department facilities so as to provide such students with training in the epidemiology of contagious and infectious diseases and chemical and radiation poisoning in an exposed population.

(C) An arrangement under which nursing, social work, counseling, or allied health personnel and students receive training and education in recognizing and caring for conditions associated with exposures to toxins through the participating Department facilities.

(D) The ability to attract scientists who have made significant contributions to the development of innovative approaches to the detection, diagnosis, prevention, or treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

(3) For purposes of paragraph (2)(A)—

(A) a qualifying medical school is an accredited medical school that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated; and

(B) a qualifying school of public health is an accredited school of public health that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated.

(d) RESEARCH ACTIVITIES.—Each center shall conduct research on improved medical preparedness to protect the Nation from threats in the area of that center's expertise. Each center may seek research funds from public and private sources for such purpose.

(e) DISSEMINATION OF RESEARCH PRODUCTS.—(1) The Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions shall ensure that information produced by the research, education and training,

and clinical activities of centers established under this section is made available, as appropriate, to health-care providers in the United States. Dissemination of such information shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

(2) The Secretary shall ensure that the work of the centers is conducted in close coordination with other Federal departments and agencies and that research products or other information of the centers shall be coordinated and shared with other Federal departments and agencies.

(f) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure that the work of each center is carried out—

(1) in close coordination with the Department of Defense, the Department of Health and Human Services, and other departments, agencies, and elements of the Government charged with coordination of plans for United States homeland security; and

(2) after taking into consideration applicable recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)) or any other joint interagency advisory group or committee designated by the President or the President's designee to coordinate Federal research on weapons of mass destruction.

(g) ASSISTANCE TO OTHER AGENCIES.—The Secretary may provide assistance requested by appropriate Federal, State, and local civil and criminal authorities in investigations, inquiries, and data analyses as necessary to protect the public safety and prevent or obviate biological, chemical, or radiological threats.

(h) DETAIL OF EMPLOYEES FROM OTHER AGENCIES.—Upon approval by the Secretary, the Director of a center may request the temporary assignment or detail to the center, on a nonreimbursable basis, of employees from other departments and agencies of the United States who have expertise that would further the mission of the center. Any such employee may be so assigned or detailed on a nonreimbursable basis pursuant to such a request.

(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.

(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetic research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.

(Added Pub. L. 108–422, title III, § 303(c)(1), Nov. 30, 2004, 118 Stat. 2386.)

CODIFICATION

The text of subsecs. (a) to (h) of this section consists of the text of section 7325(a) to (h) of this title, as duplicated in this section by Pub. L. 108–422, § 303(c)(1)(B), which was based on Pub. L. 107–287, § 2(a)(1), Nov. 7, 2002, 116 Stat. 2024.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(5), 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.

ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 108–422, title III, § 303(a), (b), Nov. 30, 2004, 118 Stat. 2386, provided that:

''(a) PEER REVIEW PANEL.—In order to assist the Secretary of Veterans Affairs in selecting facilities of the Department of Veterans Affairs to serve as sites for centers under section 7328 of title 38, United States Code, as added by subsection (c), the Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the selection of such facilities. The panel shall be established not later than 90 days after the date of the enactment of this Act [Nov. 30, 2004] and shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of veterans exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs. Amounts available to the Secretary for Medical Care may be used for purposes of carrying out this subsection. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(b) PROPOSALS.—The Secretary shall solicit proposals for designation of facilities as described in subsection (a). The announcement of the solicitation of such proposals shall be issued not later than 60 days after the date of the enactment of this Act, and the deadline for the submission of proposals in response to such solicitation shall be not later than 90 days after the date of such announcement. The peer review panel established under subsection (a) shall complete its review of the proposals and submit its recommendations to the Secretary not later than 60 days after the date of the deadline for the submission of proposals. The Secretary shall then select the four sites for the location of such centers not later than 45 days after the date on which the peer review panel submits its recommendations to the Secretary.''

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

§ 7331. Informed consent

The Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of section 7334 of this title, shall prescribe regulations establishing procedures to ensure that all medical and prosthetic research carried out and, to the maximum extent practicable, all patient care furnished under this title shall be carried out only with the full and informed consent of the patient or subject or, in appropriate cases, a representative thereof.

(Added Pub. L. 94–581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2849, § 4131; renumbered § 7331 and

amended Pub. L. 102–40, title IV, §§ 401(a)(4)(A), 402(d)(1), 403(a)(1), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40, § 401(a)(4)(A), renumbered section 4131 of this title as this section.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''7334'' for ''4134''.

EFFECTIVE DATE

Subchapter effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as an Effective Date of 1976 Amendment note under section 111 of this title.

§ 7332. Confidentiality of certain medical records

(a)(1) Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia which is carried out by or for the Department under this title shall, except as provided in subsections (e) and (f), be confidential, and (section 5701 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b).

(2) Paragraph (1) prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.

(b)(1) The content of any record referred to in subsection (a) may be disclosed by the Secretary in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the Secretary.

(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) is maintained, gives written consent, the content of such record may be disclosed by the Secretary as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.

(D) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

(3) In the event that the patient or subject who is the subject of any record referred to in subsection (a) is deceased, the content of any such record may be disclosed by the Secretary only upon the prior written request of the next of kin, executor, administrator, or other personal representative of such patient or subject and only if the Secretary determines that such disclosure is necessary for such survivor to obtain benefits to which such survivor may be entitled, including the pursuit of legal action, but then only to the extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed pursuant to section 7334 of this title.

(c) Except as authorized by a court order granted under subsection (b)(2)(D), no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

(d) The prohibitions of this section shall continue to apply to records concerning any person who has been a patient or subject, irrespective of whether or when such person ceases to be a patient.

(e) The prohibitions of this section shall not prevent any interchange of records—

(1) within and among those components of the Department furnishing health care to veterans, or determining eligibility for benefits under this title; or

(2) between such components furnishing health care to veterans and the Armed Forces.

(f)(1) Notwithstanding subsection (a) but subject to paragraph (2), a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

(2)(A) A disclosure under paragraph (1) may be made only if the physician or counselor, after

making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(g) Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined, in the case of a first offense, up to the maximum amount provided under section 5701(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 5701(f) of this title for a subsequent offense under that section.

(Added Pub. L. 94–581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2849, § 4132; amended Pub. L. 100–322, title I, § 121, May 20, 1988, 102 Stat. 502; renumbered § 7332 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(A), 402(d)(1), 403(a)(1), (2), (4), (5), May 7, 1991, 105 Stat. 221, 239.)

AMENDMENTS

1991—Pub. L. 102–40, § 401(a)(4)(A), renumbered section 4132 of this title as this section.

Subsec. (a)(1). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsections (e) and (f)'' and after ''subsection (b)''.

Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''5701'' for ''3301''.

Subsec. (a)(2). Pub. L. 102–40, § 403(a)(4), struck out ''of this subsection'' after ''Paragraph (1)''.

Subsec. (b)(1). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (a)''.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b)(2). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (a)'' in introductory provisions.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (b)(3). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (a)''.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–40, § 402(d)(1), substituted ''7334'' for ''4134''.

Subsec. (c). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (b)(2)(D)'' and after ''subsection (a)''.

Subsec. (e)(1). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (f)(1). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (a)'' and ''of this subsection'' after ''paragraph (2)''.

Subsec. (f)(2)(A). Pub. L. 102–40, § 403(a)(4), struck out ''of this subsection'' after ''paragraph (1)''.

Subsec. (f)(2)(B). Pub. L. 102–40, § 403(a)(5), struck out ''of this paragraph'' after ''subparagraph (A)''.

Subsec. (g). Pub. L. 102–40, § 402(d)(1), substituted ''5701(f)'' for ''3301(f)'' in two places.

1988—Subsec. (a). Pub. L. 100–322, § 121(a), (e)(1), designated existing provisions as par. (1), inserted ''infection with the human immunodeficiency virus,'' after ''alcohol abuse,'', substituted ''subsections (e) and (f)'' for ''subsection (e)'', and added par. (2).

Subsec. (b)(1). Pub. L. 100–322, § 121(b)(1), struck out ''pursuant to section 4134 of this title'' before period at end.

Subsec. (b)(2)(C), (D). Pub. L. 100–322, § 121(b)(2), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (c). Pub. L. 100–322, § 121(e)(2), substituted ''subsection (b)(2)(D)'' for ''subsection (b)(2)(C)''.

Subsec. (f). Pub. L. 100–322, § 121(c)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 100–322, § 121(c)(1), (d), redesignated subsec. (f) as (g) and substituted ''shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.'' for ''shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense''.

§ 7333. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Department health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

(b) The Secretary shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 7334 of this title.

(Added Pub. L. 94–581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2850, § 4133; amended Pub. L. 100–322, title I, § 122(a), May 20, 1988, 102 Stat. 503; renumbered § 7333 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(A), 402(d)(1), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239.)

AMENDMENTS

1991—Pub. L. 102–40, § 401(a)(4)(A), renumbered section 4133 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–40, §§ 402(d)(1), 403(a)(1), substituted ''Secretary'' for ''Administrator'' and ''7334'' for ''4134''.

1988—Pub. L. 100–322 substituted ''Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus'' for ''Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities'' as section catchline, and amended text generally. Prior to amendment, text read as follows: ''Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.''

RESTRICTION ON TESTING FOR INFECTION WITH HUMAN IMMUNODEFICIENCY VIRUS

Section 124 of Pub. L. 100–322, as amended by Pub. L. 102–83, § 6(j)(3), Aug. 6, 1991, 105 Stat. 409, provided that:

''(a) GENERAL RULE.—Except as provided in subsection (b), the Secretary of Veterans Affairs may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the Department of Veterans Affairs specifically for such a program during that fiscal year.

''(b) VOLUNTARY TESTING.—(1) The Secretary shall provide for a program under which the Department of Veterans Affairs offers each patient to whom the Department is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

''(2) Patients referred to in paragraph (1) are—

''(A) patients who are receiving treatment for intravenous drug abuse,

''(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and

''(C) patients who are otherwise at high risk for infection with such virus.

''(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

''(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Secretary shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.''

§ 7334. Regulations

(a) Regulations prescribed by the Secretary under section 7331 of this title, section 7332 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 7333 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

(b) The regulations referred to in subsection (a) are—

(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93–348; 88 Stat. 348); and

(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

(c) Regulations prescribed by the Secretary under sections 7331, 7332, and 7333 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 7332(b)(2)(C)[1] of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

(d) In prescribing and implementing such regulations, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Secretary prescribe.

(Added Pub. L. 94–581, title I, § 111(a)(1), Oct. 21, 1976, 90 Stat. 2851, § 4134; amended Pub. L. 97–295, § 4(87), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 100–322, title I, § 122(a), May 20, 1988, 102 Stat. 504; renumbered § 7334 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(A), 402(d)(1), 403(a)(1), (4), May 7, 1991, 105 Stat. 221, 239.)

REFERENCES IN TEXT

Section 201 of the National Research Act, referred to in subsec. (b)(1), is section 201 of Pub. L. 93–348, title II, July 12, 1974, 88 Stat. 348, as amended, which was set out as a note under section 289*l*–1 of Title 42, The Public Health and Welfare, and was repealed by Pub. L. 95–622, title III, § 302(b), Nov. 9, 1978, 92 Stat. 3442.

The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.), referred to in subsec. (b)(2), is Pub. L. 91–616, Dec. 31, 1970, 84 Stat. 1848, as amended, which is classified principally to chapter 60 (§ 4541 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4541 of Title 42 and Tables.

The Drug Abuse Office and Treatment Act of 1972, referred to in subsec. (b)(2), which was redesignated the Drug Abuse Prevention, Treatment, and Rehabilitation Act, is Pub. L. 92–255, Mar. 21, 1972, 86 Stat. 65, as amended, which is classified principally to chapter 16 (§ 1101 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of Title 21 and Tables.

Section 7332(b)(2)(C) of this title, referred to in subsec. (c), was formerly a reference to section 4132(b)(2)(C) of this title which was redesignated section 4132(b)(2)(D) by Pub. L. 100–322, title I, § 121(b)(2)(A), May 20, 1988, 102 Stat. 502, and subsequently renumbered section 7332(b)(2)(D) by Pub. L. 102–40, title IV, § 401(a)(4)(A), May 7, 1991, 105 Stat. 221. The reference to section 4132(b)(2)(C) in subsec. (c) was amended to reflect the renumbering by Pub. L. 102–40 but not the redesignation by Pub. L. 100–322.

AMENDMENTS

1991—Pub. L. 102–40, § 401(a)(4)(A), renumbered section 4134 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (b)''.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''7331'' for ''4131'', ''7332'' for ''4132'', and ''7333'' for ''4133''.

Subsec. (b). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (a)'' in introductory provisions.

Subsec. (c). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''7331, 7332, and 7333'' for ''4131, 4132, and 4133'' and ''7332(b)(2)(C)'' for ''4132(b)(2)(C)''.

Subsec. (d). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in two places.

1988—Pub. L. 100–322 amended section generally, substituting provisions consisting of subsecs. (a) to (d) for former provisions consisting of subsecs. (a) and (b).

[1] See References in Text note below.

1982—Subsec. (a). Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare'' wherever appearing, and substituted ''the President (or the delegate of the President)'' for ''the Director of the Office of Drug Abuse Policy (or any successor authority)''.

SUBCHAPTER IV—RESEARCH CORPORATIONS

PRIOR PROVISIONS

A prior subchapter IV of this chapter consisted of sections 4141 and 4142 prior to amendment by Pub. L. 102–40, title IV, § 401(c)(1), May 7, 1991, 105 Stat. 238, which struck out the subchapter heading ''PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL'', renumbered sections 4141 and 4142 as sections 7451 and 7452 of this title, respectively, and transferred those sections to subchapter IV of chapter 74 of this title.

A prior subchapter V of this chapter consisting of sections 4151 and 4152, related to quality assurance, prior to repeal by Pub. L. 102–40, title IV, § 401(a)(2)(A), May 7, 1991, 105 Stat. 210. See Prior Provisions notes set out under section 4110A of this title.

A prior subchapter VI of this chapter was redesignated as this subchapter.

AMENDMENTS

1991—Pub. L. 102–40, title IV, § 401(a)(2)(B), May 7, 1991, 105 Stat. 210, redesignated subchapter VI of this chapter as this subchapter. For disposition of former subchapter IV of this chapter, see Prior Provisions note above.

§ 7361. Authority to establish; status

(a) The Secretary may authorize the establishment at any Department medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research and education at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Secretary, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations. Such a corporation may be established to facilitate either research or education or both research and education.

(b) If by the end of the four-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986, the Secretary shall dissolve the corporation.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 510, § 4161; renumbered § 7361 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(B), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–291, § 3(a), May 20, 1992, 106 Stat. 179; Pub. L. 104–262, title III, § 343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–117, title II, § 204(a), Nov. 30, 1999, 113 Stat. 1562.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106–117 inserted ''and education'' after ''research'' and inserted at end ''Such a corporation may be established to facilitate either research or education or both research and education.''

1996—Subsec. (b). Pub. L. 104–262 struck out ''section 501(c)(3) of'' before ''the Internal Revenue Code of 1986''.

1992—Subsec. (b). Pub. L. 102–291 substituted ''four-year period'' for ''three-year period''.

1991—Pub. L. 102–40, § 401(a)(4)(B), renumbered section 4161 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 3(c) of Pub. L. 102–291 provided that: ''The amendments made by subsections (a) and (b) [amending this section and section 7368 of this title] shall take effect as of October 1, 1991.''

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Section 3(d) of Pub. L. 102–291 provided that: ''The following actions of the Secretary of Veterans Affairs during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act [May 20, 1992] are hereby ratified:

''(1) A failure to dissolve a nonprofit corporation established under section 7361(a) of title 38, United States Code, that, within the three-year period beginning on the date of the establishment of the corporation, was not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)].

''(2) The establishment of a nonprofit corporation for approved research under section 7361(a) of title 38, United States Code.''

§ 7362. Purpose of corporations

(a) Any corporation established under this subchapter shall be established solely to facilitate research as described in section 7303(a) of this title and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B)[1] of this title in conjunction with the applicable Department medical center. Any funds received by the Secretary for the conduct of research or education at the medical center other than funds appropriated to the Department may be transferred to and administered by the corporation for these purposes.

(b) For purposes of this section, the term ''education and training'' means the following:

(1) In the case of employees of the Veterans Health Administration, such term means work-related instruction or other learning experiences to—

(A) improve performance of current duties;

(B) assist employees in maintaining or gaining specialized proficiencies; and

(C) expand understanding of advances and changes in patient care, technology, and health care administration.

Such term includes (in the case of such employees) education and training conducted as part of a residency or other program designed to prepare an individual for an occupation or profession.

(2) In the case of veterans under the care of the Veterans Health Administration, such

[1] See References in Text note below.

term means instruction or other learning experiences related to improving and maintaining the health of veterans to patients and to the families and guardians of patients.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 510, § 4162; renumbered § 7362 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(B), 403(a)(1)–(3), May 7, 1991, 105 Stat. 221, 239; Pub. L. 106–117, title II, § 204(b), Nov. 30, 1999, 113 Stat. 1562.)

REFERENCES IN TEXT

Section 1701(6)(B) of this title, referred to in subsec. (a), which related to inclusion of consultation, professional counseling, training, and mental health services in definition of ''medical services'', was repealed and a new section 1701(6)(B) relating to dental services and appliances was enacted, by Pub. L. 107–135, title II, § 208(a)(1)(A), (C), Jan. 23, 2002, 115 Stat. 2461.

AMENDMENTS

1999—Pub. L. 106–117 designated existing provisions as subsec. (a), in first sentence, inserted ''and education and training as described in sections 7302, 7471, 8154, and 1701(6)(B) of this title'' after ''7303(a) of this title'', in second sentence, inserted ''or education'' after ''research'' and substituted ''these purposes'' for ''that purpose'', and added subsec. (b).

1991—Pub. L. 102–40, § 401(a)(4)(B), renumbered section 4162 of this title as this section.

Pub. L. 102–40, § 403(a)(3), substituted ''7303(a)'' for ''4101(c)(1)''.

Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration'' in two places.

Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

§ 7363. Board of directors; executive director

(a) The Secretary shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) the director of the medical center, the chief of staff of the medical center, and as appropriate, the assistant chief of staff for research for the medical center and the assistant chief of staff for education for the medical center, or, in the case of a facility at which such positions do not exist, those officials who are responsible for carrying out the responsibilities of the medical center director, chief of staff, and, as appropriate, the assistant chief of staff for research and the assistant chief of staff for education; and

(2) subject to subsection (c), members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research or education, as appropriate.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Under Secretary for Health of the Department. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research or education by the Department unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 510, § 4163; renumbered § 7363 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(B), 403(a)(1), (2), (4), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title III, § 343(b), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–117, title II, § 204(c), Nov. 30, 1999, 113 Stat. 1562.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106–117, § 204(c)(1), substituted ''as appropriate, the assistant chief of staff for research for the medical center and the assistant chief of staff for education for the medical center, or, in the case of a facility at which such positions do not exist, those officials who are responsible for carrying out the responsibilities of the medical center director, chief of staff, and, as appropriate, the assistant chief of staff for research and the assistant chief of staff for education; and'' for ''the assistant chief of staff for research of the medical center; and''.

Subsec. (a)(2). Pub. L. 106–117, § 204(c)(2), inserted ''or education, as appropriate'' after ''research''.

Subsec. (c). Pub. L. 106–117, § 204(c)(3), inserted ''or education'' after ''research''.

1996—Subsec. (c). Pub. L. 104–262 struck out ''section 501(c)(3) of'' before ''the Internal Revenue Code of 1986''.

1992—Subsec. (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40, § 401(a)(4)(B), renumbered section 4163 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (a)(2). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (c)''.

Subsec. (b). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c). Pub. L. 102–40, § 403(a)(4), struck out ''of this section'' after ''subsection (a)(2)''.

Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

§ 7364. General powers

(a) A corporation established under this subchapter may—

(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Under Secretary for Health for research carried out with Department funds. Such procedures shall include a peer review process.

(c)(1) A corporation established under this subchapter may not spend funds for an education activity unless the activity is approved in accordance with procedures prescribed by the Under Secretary for Health.

(2) The Under Secretary for Health shall prescribe policies and procedures to guide the expenditure of funds by corporations under paragraph (1) consistent with the purpose of such corporations as flexible funding mechanisms.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 511, § 4164; renumbered § 7364 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(B), 403(a)(2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106–117, title II, § 204(d), Nov. 30, 1999, 113 Stat. 1562.)

AMENDMENTS

1999—Subsec. (c). Pub. L. 106–117 added subsec. (c).

1992—Subsec. (b). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40, § 401(a)(4)(B), renumbered section 4164 of this title as this section.

Subsec. (b). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration''.

§ 7364A. Coverage of employees under certain Federal tort claims laws

(a) An employee of a corporation established under this subchapter who is described by subsection (b) shall be considered an employee of the Government, or a medical care employee of the Veterans Health Administration, for purposes of the following provisions of law:

(1) Section 1346(b) of title 28.

(2) Chapter 171 of title 28.

(3) Section 7316 of this title.

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

(1) has an appointment with the Department, whether with or without compensation;

(2) is directly or indirectly involved or engaged in research or education and training that is approved in accordance with procedures established by the Under Secretary for Health for research or education and training; and

(3) performs such duties under the supervision of Department personnel.

(Added Pub. L. 108–170, title IV, § 402(a)(1), Dec. 6, 2003, 117 Stat. 2061.)

§ 7365. Applicable State law

Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 511, § 4165; renumbered § 7365, Pub. L. 102–40, title IV, § 401(a)(4)(B), May 7, 1991, 105 Stat. 221.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4165 of this title as this section.

§ 7366. Accountability and oversight

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Secretary.

(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under such Act.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

(b) Each such corporation shall submit to the Secretary an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. A corporation with revenues in excess of $300,000 for any year shall obtain an audit of the corporation for that year. A corporation with annual revenues between $10,000 and $300,000 shall obtain an independent audit of the corporation at least once every three years. Any audit under the preceding sentences shall be performed by an independent auditor. The corporation shall include the most recent such audit in the corporation's report to the Secretary for that year.

(c)(1) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Department who is involved in the functions of the corporation during any year shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions.

(2) Each corporation established under this subchapter shall each year submit to the Secretary a statement signed by the executive director of the corporation verifying that each director and employee has certified awareness of the laws and regulations referred to in paragraph (1) and of the consequences of violations of those laws and regulations in the same manner as Federal employees are required to so certify.

(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the corporations established under this subchapter. The report shall set forth the following information:

(1) The location of each corporation.

(2) The amount received by each corporation during the previous year, including—

(A) the total amount received;

(B) the amount received from governmental entities for research and the amount received from governmental entities for education;

(C) the amount received from all other sources for research and the amount received from all other sources for education; and

(D) if an amount received from a source referred to in subparagraph (C) exceeded $25,000, information that identifies the source.

(3) The amount expended by each corporation during the year, including—

(A) the amount expended for salary for research staff, the amount expended for salary

for education staff, and the amount expended for salary for support staff;

(B) the amount expended for direct support of research and the amount expended for direct support of education; and

(C) if the amount expended with respect to any payee exceeded $35,000, information that identifies the payee.

(4) The amount expended by each corporation during the year for travel conducted in conjunction with research and the amount expended for travel in conjunction with education.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 511, § 4166; renumbered § 7366 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(B), 403(a)(1), (2), May 7, 1991, 105 Stat. 221, 239; Pub. L. 104–262, title III, § 343(c)–(e), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–117, title II, § 204(e), Nov. 30, 1999, 113 Stat. 1563; Pub. L. 107–103, title V, § 509(f), Dec. 27, 2001, 115 Stat. 997; Pub. L. 108–170, title IV, § 402(b), Dec. 6, 2003, 117 Stat. 2062.)

REFERENCES IN TEXT

The Inspector General Act of 1978, referred to in subsec. (a)(1)(B), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–170 inserted ''(1)'' after ''(c)'', substituted ''any year shall be subject'' for ''any year—(1) shall be subject'' and ''functions.'' for ''functions; and'', added par. (2), and struck out former par. (2) which read as follows: ''shall submit to the Secretary a statement signed by the executive director of the corporation certifying that each director and employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.''

2001—Subsec. (d)(2)(D). Pub. L. 107–103 made technical correction to directory language of Pub. L. 106–117, § 204(e)(3). See 1999 Amendment note below.

1999—Subsec. (d)(2)(B). Pub. L. 106–117, § 204(e)(1), inserted ''for research and the amount received from governmental entities for education'' before the semicolon at end.

Subsec. (d)(2)(C). Pub. L. 106–117, § 204(e)(2), inserted ''for research and the amount received from all other sources for education'' before ''; and''.

Subsec. (d)(2)(D). Pub. L. 106–117, § 204(e)(3), as amended by Pub. L. 107–103, § 509(f), substituted ''an amount received'' for ''the amount received''.

Subsec. (d)(3)(A). Pub. L. 106–117, § 204(e)(4), substituted '', the amount expended for salary for education staff, and the amount expended'' for ''and''.

Subsec. (d)(3)(B). Pub. L. 106–117, § 204(e)(5), inserted ''and the amount expended for direct support of education'' after ''research''.

Subsec. (d)(4). Pub. L. 106–117, § 204(e)(6), added par. (4).

1996—Subsec. (b). Pub. L. 104–262, § 343(c), substituted ''A corporation with revenues in excess of $300,000 for any year shall obtain an audit of the corporation for that year. A corporation with annual revenues between $10,000 and $300,000 shall obtain an independent audit of the corporation at least once every three years. Any audit under the preceding sentences shall be performed by an independent auditor. The corporation shall include the most recent such audit'' for ''The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report''.

Subsec. (c)(2). Pub. L. 104–262, § 343(d), substituted ''a statement signed by the executive director of the corporation certifying that each director and'' for ''an annual statement signed by the director or employee certifying that the director or''.

Subsec. (d). Pub. L. 104–262, § 343(e), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.''

1991—Pub. L. 102–40, § 401(a)(4)(B), renumbered section 4166 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

Subsec. (a)(1)(B). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (b). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (c). Pub. L. 102–40, § 403(a)(2), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

Subsec. (c)(2). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

Subsec. (d). Pub. L. 102–40, § 403(a)(1), substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–103, title V, § 509(f), Dec. 27, 2001, 115 Stat. 997, provided that the amendment made by section 509(f) is effective Nov. 30, 1999, and as if included in Pub. L. 106–117 as originally enacted.

[§ 7367. Repealed. Pub. L. 107–14, § 8(a)(14)(A), June 5, 2001, 115 Stat. 35]

Section, added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 512, § 4167; renumbered § 7367 and amended Pub. L. 102–40, title IV, §§ 401(a)(4)(B), 403(a)(1), May 7, 1991, 105 Stat. 221, 239, required a report to Congress on the experience through the end of fiscal year 1990 under this subchapter.

§ 7368. Expiration of authority

No corporation may be established under this subchapter after December 31, 2008.

(Added Pub. L. 100–322, title II, § 204(a), May 20, 1988, 102 Stat. 512, § 4168; renumbered § 7368, Pub. L. 102–40, title IV, § 401(a)(4)(B), May 7, 1991, 105 Stat. 221; amended Pub. L. 102–291, § 3(b), May 20, 1992, 106 Stat. 179; Pub. L. 104–262, title III, § 343(a), Oct. 9, 1996, 110 Stat. 3207; Pub. L. 106–419, title IV, § 402(g), Nov. 1, 2000, 114 Stat. 1863; Pub. L. 108–170, title IV, § 402(c), Dec. 6, 2003, 117 Stat. 2062.)

AMENDMENTS

2003—Pub. L. 108–170 substituted ''December 31, 2008'' for ''December 31, 2003''.

2000—Pub. L. 106–419 substituted ''December 31, 2003'' for ''December 31, 2000''.

1996—Pub. L. 104–262 substituted ''December 31, 2000'' for ''December 31, 1992''.

1992—Pub. L. 102–291 substituted ''December 31, 1992'' for ''September 30, 1991''.

1991—Pub. L. 102–40 renumbered section 4168 of this title as this section.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–291 effective Oct. 1, 1991, see section 3(c) of Pub. L. 102–291, set out as a note under section 7361 of this title.

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2004—Pub. L. 108–445, §§3(g), 4(a)(2), Dec. 3, 2004, 118 Stat. 2643, 2645, substituted ''PAY FOR PHYSICIANS AND DENTISTS'' for ''SPECIAL PAY FOR PHYSICIANS AND DENTISTS'' in item for subchapter III, ''Pay'' for ''Special pay: authority'' in item 7431, ''Pay of Under Secretary for Health'' for ''Special pay: written agreements'' in item 7432, ''Administrative matters'' for ''Special pay: full-time physicians'' in item 7433, struck out items 7434 ''Special pay: part-time physicians'', 7435 ''Special pay: full-time dentists'', 7436 ''Special pay: part-time dentists'', 7437 ''Special pay: general provisions'', 7438 ''Special pay: coordination with other benefits laws'', 7439 ''Periodic review of pay of physicians and dentists; quadrennial report'', and 7440 ''Annual report'', and added item 7456A.

1991—Pub. L. 102–40, title I, §§102, 103(a)(2), title II, §203(b), title IV, §401(b)(1), May 7, 1991, 105 Stat. 187, 199, 207, 221, added chapter heading and analysis.

SUBCHAPTER I—APPOINTMENTS

§ 7401. Appointments in Veterans Health Administration

There may be appointed by the Secretary such personnel as the Secretary may find necessary for the health care of veterans (in addition to those in the Office of the Under Secretary for Health appointed under section 7306 of this title), as follows:

(1) Physicians, dentists, podiatrists, chiropractors, optometrists, registered nurses, physician assistants, and expanded-function dental auxiliaries.

(2) Scientific and professional personnel, such as microbiologists, chemists, and biostatisticians.

(3) Audiologists, speech pathologists, and audiologist-speech pathologists, biomedical engineers, certified or registered respiratory therapists, dietitians, licensed physical therapists, licensed practical or vocational nurses, medical instrument technicians, medical records administrators or specialists, medical records technicians, medical technologists, dental hygienists, dental assistants, nuclear medicine technologists, occupational therapists, occupational therapy assistants, kinesiotherapists, orthotist-prosthetists, pharmacists, pharmacy technicians, physical therapy assistants, prosthetic representatives, psychologists, diagnostic radiologic technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists.

(Added Pub. L. 102–40, title IV, §401(b)(2), May 7, 1991, 105 Stat. 222; amended Pub. L. 102–405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 108–170, title III, §§301(a)(1), 302(a), Dec. 6, 2003, 117 Stat. 2054, 2057; Pub. L. 108–422, title V, §502, Nov. 30, 2004, 118 Stat. 2396.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4104 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2004—Par. (3). Pub. L. 108–422 substituted ''technologists, dental hygienists, dental assistants'' for ''and dental technologists'' and ''technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists'' for ''technicians, therapeutic radiologic technicians, and social workers''.

2003—Pub. L. 108–170, §302(a)(1), substituted ''health'' for ''medical'' in introductory provisions.

Par. (1). Pub. L. 108–170, §302(a)(2), inserted ''chiropractors,'' after ''podiatrists,''.

Par. (2). Pub. L. 108–170, § 301(a)(1)(A), added par. (2) and struck out former par. (2) which read as follows: ''Psychologists (other than those described in paragraph (3)), dietitians, and other scientific and professional personnel, such as microbiologists, chemists, biostatisticians, and medical and dental technologists.''

Par. (3). Pub. L. 108–170, § 301(a)(1)(B), added par. (3) and struck out former par. (3) which read as follows: ''Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.''

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 302(a) of Pub. L. 108–170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108–170, set out as a note under section 7316 of this title.

PRIOR APPOINTMENTS OF CERTAIN PERSONNEL

Pub. L. 108–170, title III, § 301(a)(2), Dec. 6, 2003, 117 Stat. 2055, provided that: ''Personnel appointed to the Veterans Health Administration before the date of the enactment of this Act [Dec. 6, 2003] who are in an occupational category of employees specified in paragraph (3) of section 7401 of title 38, United States Code, by reason of the amendment made by paragraph (1)(B) of this subsection [amending this section] shall, as of such date, be deemed to have been appointed to the Administration under such paragraph (3).''

§ 7402. Qualifications of appointees

(a) To be eligible for appointment to the positions in the Administration covered by subsection (b), a person must have the applicable qualifications set forth in that subsection.

(b)(1) PHYSICIAN.—To be eligible to be appointed to a physician position, a person must—

(A) hold the degree of doctor of medicine or of doctor of osteopathy from a college or university approved by the Secretary,

(B) have completed an internship satisfactory to the Secretary, and

(C) be licensed to practice medicine, surgery, or osteopathy in a State.

(2) DENTIST.—To be eligible to be appointed to a dentist position, a person must—

(A) hold the degree of doctor of dental surgery or dental medicine from a college or university approved by the Secretary, and

(B) be licensed to practice dentistry in a State.

(3) NURSE.—To be eligible to be appointed to a nurse position, a person must—

(A) have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, and

(B) be registered as a graduate nurse in a State.

(4) DIRECTOR OF A HOSPITAL, DOMICILIARY, CENTER, OR OUTPATIENT CLINIC.—To be eligible to be appointed to a director position, a person must have such business and administrative experience and qualifications as the Secretary shall prescribe.

(5) PODIATRIST.—To be eligible to be appointed to a podiatrist position, a person must—

(A) hold the degree of doctor of podiatric medicine, or its equivalent, from a school of podiatric medicine approved by the Secretary, and

(B) be licensed to practice podiatry in a State.

(6) OPTOMETRIST.—To be eligible to be appointed to an optometrist position, a person must—

(A) hold the degree of doctor of optometry, or its equivalent, from a school of optometry approved by the Secretary, and

(B) be licensed to practice optometry in a State.

(7) PHARMACIST.—To be eligible to be appointed to a pharmacist position, a person must—

(A) hold the degree of bachelor of science in pharmacy, or its equivalent, from a school of pharmacy, approved by the Secretary, and

(B) be registered as a pharmacist in a State.

(8) PSYCHOLOGIST.—To be eligible to be appointed to a psychologist position, a person must—

(A) hold a doctoral degree in psychology from a college or university approved by the Secretary,

(B) have completed study for such degree in a specialty area of psychology and an internship which are satisfactory to the Secretary, and

(C) be licensed or certified as a psychologist in a State, except that the Secretary may waive the requirement of licensure or certification for an individual psychologist for a period not to exceed two years on the condition that that psychologist provide patient care only under the direct supervision of a psychologist who is so licensed or certified.

(9) SOCIAL WORKER.—To be eligible to be appointed to a social worker position, a person must—

(A) hold a master's degree in social work from a college or university approved by the Secretary; and

(B) be licensed or certified to independently practice social work in a State, except that the Secretary may waive the requirement of licensure or certification for an individual social worker for a reasonable period of time recommended by the Under Secretary for Health.

(10) CHIROPRACTOR.—To be eligible to be appointed to a chiropractor position, a person must—

(A) hold the degree of doctor of chiropractic, or its equivalent, from a college of chiropractic approved by the Secretary; and

(B) be licensed to practice chiropractic in a State.

(11) OTHER HEALTH-CARE POSITIONS.—To be appointed as a physician assistant, expanded-function dental auxiliary, certified or registered respiratory therapist, licensed physical therapist, licensed practical or vocational nurse, occupational therapist, dietitian, microbiologist, chemist, biostatistician, medical technologist, dental technologist, or other position, a person must have such medical, dental, scientific, or technical qualifications as the Secretary shall prescribe.

(c) Except as provided in section 7407(a) of this title, a person may not be appointed in the Administration to a position listed in section 7401(1) of this title unless the person is a citizen of the United States.

(d) A person may not be appointed under section 7401(1) of this title to serve in the Administration in any direct patient-care capacity unless the Under Secretary for Health determines that the person possesses such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable the person to carry out the person's health-care responsibilities satisfactorily. Any determination by the Under Secretary for Health under this subsection shall be in accordance with regulations which the Secretary shall prescribe.

(e) A person may not serve as Chief of Staff of a Department health-care facility if the person is not serving on a full-time basis.

(f) A person may not be employed in a position under subsection (b) (other than under paragraph (4) of that subsection) if—

(1) the person is or has been licensed, registered, or certified (as applicable to such position) in more than one State; and

(2) either—

(A) any of those States has terminated such license, registration, or certification for cause; or

(B) the person has voluntarily relinquished such license, registration, or certification in any of those States after being notified in writing by that State of potential termination for cause.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 222; amended Pub. L. 102–86, title III, § 305(a), Aug. 14, 1991, 105 Stat. 417; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106–117, title II, § 209, Nov. 30, 1999, 113 Stat. 1569; Pub. L. 106–419, title II, § 205, Nov. 1, 2000, 114 Stat. 1842; Pub. L. 108–170, title III, § 302(b), Dec. 6, 2003, 117 Stat. 2058.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4105 and 4108(b) of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2003—Subsec. (b)(10), (11). Pub. L. 108–170 added par. (10) and redesignated former par. (10) as (11).

2000—Subsec. (b)(9). Pub. L. 106–419 substituted "a person must—" and subpars. (A) and (B) for "a person must hold a master's degree in social work from a college or university approved by the Secretary and satisfy the social worker licensure, certification, or registration requirements, if any, of the State in which the social worker is to be employed, except that the Secretary may waive the licensure, certification, or registration requirement of this paragraph for an individual social worker for a reasonable period, not to exceed 3 years, in order for the social worker to take any actions necessary to satisfy the licensure, certification, or registration requirements of such State."

1999—Subsec. (f). Pub. L. 106–117 added subsec. (f).

1992—Subsec. (d). Pub. L. 102–405 substituted "Under Secretary for Health" for "Chief Medical Director" in two places.

1991—Subsec. (b)(9), (10). Pub. L. 102–86 added par. (9) and redesignated former par. (9) as (10).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108–170, set out as a note under section 7316 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 305(b) of Pub. L. 102–86 provided that: "The amendment made by subsection (a) [amending this section] does not apply to any person employed as a social worker by the Department of Veterans Affairs on or before the date of the enactment of this Act [Aug. 14, 1991]."

REQUIREMENTS RESPECTING BASIC PROFICIENCY IN SPOKEN AND WRITTEN ENGLISH OF APPOINTEES AFTER NOVEMBER 23, 1977

Section 4(a)(3) of Pub. L. 95–201 provided that: "Notwithstanding any other provision of law, with respect to persons other than those described in subsection (c) of section 4105 and subsection (f) of section 4114 of title 38, United States Code [former sections 4105(c) and 4114(f) of this title, see subsec. (d) of this section and section 7407(d) of this title] (as added by paragraphs (1) and (2) of this subsection), who are appointed after the date of enactment of this Act [Nov. 23, 1977] in the Department of Medicine and Surgery in the Veterans' Administration [now Veterans Health Administration of the Department of Veterans Affairs] in any direct patient-care capacity, and with respect to persons described in such subsections who are appointed after such enactment date and prior to January 1, 1978, the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs], upon the recommendation of the Chief Medical Director [now Under Secretary for Health], shall take appropriate steps to provide reasonable assurance that such persons possess such basic proficiency in spoken and written English as will permit such degree of communication with patients and other health-care personnel as will enable such persons to carry out their health-care responsibilities satisfactorily."

§ 7403. Period of appointments; promotions

(a)(1) Appointments under this chapter of health-care professionals to whom this section applies may be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Secretary, without regard to civil-service requirements.

(2) This section applies to the following persons appointed under this chapter:

(A) Physicians.

(B) Dentists.

(C) Podiatrists.

(D) Optometrists.

(E) Nurses.

(F) Physician assistants.

(G) Expanded-function dental auxiliaries.

(H) Chiropractors.

(b)(1) Appointments described in subsection (a) shall be for a probationary period of two years.

(2) The record of each person serving under such an appointment in the Medical, Dental, and Nursing Services shall be reviewed from time to time by a board, appointed in accordance with regulations of the Secretary. If such a board finds that such person is not fully qualified and satisfactory, such person shall be separated from the service.

(c) Promotions of persons to whom this section applies shall be made only after examination given in accordance with regulations pre-

scribed by the Secretary. Advancement within grade may be made in increments of the minimum rate of basic pay of the grade in accordance with regulations prescribed by the Secretary.

(d) In determining eligibility for reinstatement in the Federal civil service of persons appointed to positions in the Administration under this chapter who at the time of appointment have a civil-service status, and whose employment in the Administration is terminated, the period of service performed in the Administration shall be included in computing the period of service under applicable civil-service rules and regulations.

(e) In accordance with regulations prescribed by the Secretary, the grade and annual rate of basic pay of a person to whom this section applies whose level of assignment is changed from a level of assignment in which the grade level is based on both the nature of the assignment and personal qualifications may be adjusted to the grade and annual rate of basic pay otherwise appropriate.

(f)(1) Upon the recommendation of the Under Secretary for Health, the Secretary may—

(A) use the authority in subsection (a) to establish the qualifications for and (subject to paragraph (2)) to appoint individuals to positions listed in section 7401(3) of this title; and

(B) use the authority provided in subsection (c) for the promotion and advancement of Department employees serving in such positions.

(2) In using such authority to appoint individuals to such positions, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, reductions-in-force, the applicability of the principles of preference referred to in paragraph (2), rights of part-time employees, disciplinary actions, and grievance procedures involving individuals appointed to such positions, whether appointed under this section or section 7405(a)(1)(B) of this title (including similar actions and procedures involving an employee in a probationary status), shall be resolved under the provisions of title 5 as though such individuals had been appointed under that title.

(g)(1) The Secretary may appoint in the competitive civil service without regard to the provisions of subchapter I of chapter 33 of title 5 (other than sections 3303 and 3328 of such title) an individual who—

(A) has a recognized degree or certificate from an accredited institution in a health-care profession or occupation; and

(B) has successfully completed a clinical education program affiliated with the Department.

(2) In using the authority provided by this subsection, the Secretary shall apply the principles of preference for the hiring of veterans and other persons established in subchapter I of chapter 33 of title 5.

(h)(1) If the Secretary uses the authority provided in subsection (c) for the promotion and advancement of an occupational category of employees described in section 7401(3) of this title, as authorized by subsection (f)(1)(B), the Secretary shall do so through one or more systems prescribed by the Secretary. Each such system shall be planned, developed, and implemented in collaboration with, and with the participation of, exclusive employee representatives of such occupational category of employees.

(2)(A) Before prescribing a system of promotion and advancement of an occupational category of employees under paragraph (1), the Secretary shall provide to exclusive employee representatives of such occupational category of employees a written description of the proposed system.

(B) Not later than 30 days after receipt of the description of a proposed system under subparagraph (A), exclusive employee representatives may submit to the Secretary the recommendations, if any, of such exclusive employee representatives with respect to the proposed system.

(C) The Secretary shall give full and fair consideration to any recommendations received under subparagraph (B) in deciding whether and how to proceed with a proposed system.

(3) The Secretary shall implement immediately any part of a system of promotion and advancement under paragraph (1) that is proposed under paragraph (2) for which the Secretary receives no recommendations from exclusive employee representatives under paragraph (2).

(4) If the Secretary receives recommendations under paragraph (2) from exclusive employee representatives on any part of a proposed system of promotion and advancement under that paragraph, the Secretary shall determine whether or not to accept the recommendations, either in whole or in part. If the Secretary determines not to accept all or part of the recommendations, the Secretary shall—

(A) notify the congressional veterans' affairs committees of the recommendations and of the portion of the recommendations that the Secretary has determined not to accept;

(B) meet and confer with such exclusive employee representatives, for a period not less than 30 days, for purposes of attempting to reach an agreement on whether and how to proceed with the portion of the recommendations that the Secretary has determined not to accept;

(C) at the election of the Secretary, or of a majority of such exclusive employee representatives who are participating in negotiations on such matter, employ the services of the Federal Mediation and Conciliation Service during the period referred to in subparagraph (B) for purposes of reaching such agreement; and

(D) if the Secretary determines that activities under subparagraph (B), (C), or both are unsuccessful at reaching such agreement and determines (in the sole and unreviewable discretion of the Secretary) that further meeting and conferral under subparagraph (B), mediation under subparagraph (C), or both are unlikely to reach such agreement—

(i) notify the congressional veterans' affairs committees of such determinations,

identify for such committees the portions of the recommendations that the Secretary has determined not to accept, and provide such committees an explanation and justification for determining to implement the part of the system subject to such portions of the recommendations without regard to such portions of the recommendations; and

(ii) commencing not earlier than 30 days after notice under clause (i), implement the part of the system subject to the recommendations that the Secretary has determined not to accept without regard to those recommendations.

(5) If the Secretary and exclusive employee representatives reach an agreement under paragraph (4) providing for the resolution of a disagreement on one or more portions of the recommendations that the Secretary had determined not to accept under that paragraph, the Secretary shall immediately implement such resolution.

(6) In implementing a system of promotion and advancement under this subsection, the Secretary shall—

(A) develop and implement mechanisms to permit exclusive employee representatives to participate in the periodic review and evaluation of the system, including peer review, and in any further planning or development required with respect to the system as a result of such review and evaluation; and

(B) provide exclusive employee representatives appropriate access to information to ensure that the participation of such exclusive employee representative in activities under subparagraph (A) is productive.

(7)(A) The Secretary may from time to time modify a system of promotion and advancement under this subsection.

(B) In modifying a system, the Secretary shall take into account any recommendations made by the exclusive employee representatives concerned.

(C) In modifying a system, the Secretary shall comply with paragraphs (2) through (5) and shall treat any proposal for the modification of a system as a proposal for a system for purposes of such paragraphs.

(D) The Secretary shall promptly submit to the congressional veterans' affairs committees a report on any modification of a system. Each report shall include—

(i) an explanation and justification of the modification; and

(ii) a description of any recommendations of exclusive employee representatives with respect to the modification and a statement whether or not the modification was revised in light of such recommendations.

(8) In the case of employees who are not within a unit with respect to which a labor organization is accorded exclusive recognition, the Secretary may develop procedures for input from representatives under this subsection from any appropriate organization that represents a substantial percentage of such employees or, if none, in such other manner as the Secretary considers appropriate, consistent with the purposes of this subsection.

(9) In this subsection, the term ''congressional veterans' affairs committees'' means the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 224; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 108–170, title III, §§ 301(b), 302(c), Dec. 6, 2003, 117 Stat. 2055, 2058.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4106 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2003—Subsec. (a)(2)(H). Pub. L. 108–170, § 302(c), added subpar. (H).

Subsec. (f)(3). Pub. L. 108–170, § 301(b)(1), inserted ''reductions-in-force, the applicability of the principles of preference referred to in paragraph (2), rights of part-time employees,'' after ''adverse actions,'', '', whether appointed under this section or section 7405(a)(1)(B) of this title'' after ''such positions'', and comma after ''status)''.

Subsec. (h). Pub. L. 108–170, § 301(b)(2), added subsec. (h).

1992—Subsec. (f)(1). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 302(c) of Pub. L. 108–170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108–170, set out as a note under section 7316 of this title.

§ 7404. Grades and pay scales

(a) The annual rates or ranges of rates of basic pay for positions provided in section 7306 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law. The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order.

(b) The grades for positions provided for in paragraph (1) of section 7401 of this title shall be as follows. The annual ranges of rates of basic pay for those grades shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

PHYSICIAN AND DENTIST SCHEDULE

Physician grade.
Dentist grade.

NURSE SCHEDULE

Nurse V.
Nurse IV.
Nurse III.
Nurse II.
Nurse I.

CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE

Chief grade.
Senior grade.

Intermediate grade.
Full grade.
Associate grade.

(c) Notwithstanding the provisions of section 7425(a) of this title, a person appointed under section 7306 of this title who is not eligible for pay under subchapter III shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.

(d) Except as provided under subchapter III and in section 7457 of this title, pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 225; amended Pub. L. 102–405, title II, § 206, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 102–585, title III, § 301(a), Nov. 4, 1992, 106 Stat. 4951; Pub. L. 108–170, title III, § 302(d), Dec. 6, 2003, 117 Stat. 2058; Pub. L. 108–445, § 3(a), (f), Dec. 3, 2004, 118 Stat. 2636, 2643.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4107(a)–(d) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–445, § 3(a)(2), inserted at end "The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order."

Subsec. (b). Pub. L. 108–445, § 3(a)(1), struck out "(1)" after "(b)", inserted items relating to Physician grade and Dentist grade under heading "PHYSICIAN AND DENTIST SCHEDULE" and struck out former items under that heading, which read "Director grade", "Executive grade", "Chief grade", "Senior grade", "Intermediate grade", "Full grade", and "Associate grade", and struck out par. (2). Prior to amendment, par. (2) read as follows: "A person may not hold the director grade in the Physician and Dentist Schedule unless the person is serving as a director of a hospital, domiciliary, center, or outpatient clinic (independent), or comparable position. A person may not hold the executive grade in that Schedule unless the person holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position."

Subsec. (c). Pub. L. 108–445, § 3(f)(1), substituted "pay" for "special pay".

Subsec. (d). Pub. L. 108–445, § 3(f)(2), substituted "pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule." for "pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5315 or 5316 of title 5 for positions in the Executive Schedule, as follows:

"(1) Level IV for the Deputy Under Secretary for Health.

"(2) Level V for all other positions for which such basic pay is paid under this section."

2003—Subsec. (b)(1). Pub. L. 108–170 substituted "CLINICAL PODIATRIST, CHIROPRACTOR, AND OPTOMETRIST SCHEDULE" for "CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE" as third center heading in table.

1992—Subsec. (b)(1). Pub. L. 102–585 inserted items relating to Nurse V through I under heading "NURSE SCHEDULE" and struck out former items under that heading, "Director grade", "Senior grade", "Intermediate grade", and "Entry grade".

Subsec. (b)(2). Pub. L. 102–405, § 206, inserted ", or comparable position" before period at end of first sentence.

Subsec. (d)(1). Pub. L. 102–405, § 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director".

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108–170, set out as a note under section 7316 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 308 of Pub. L. 102–585 provided that: "The amendments made by sections 301, 302, 303, and 304 [amending this section and sections 7451 and 7452 of this title] shall take effect with respect to the first pay period beginning on or after the end of the six-month period beginning on the date of the enactment of this Act [Nov. 4, 1992]."

ADJUSTMENT OF PAY RATES EFFECTIVE FOR PAY PERIODS BEGINNING ON OR AFTER JANUARY 1, 2005

Ex. Ord. No. 13368, Dec. 30, 2004, 70 F.R. 1147, set out as a note under section 5332 of Title 5, Government Organization and Employees, provided for an adjustment of the pay rates under this section effective on the first day of the first applicable pay period beginning on or after Jan. 1, 2005. See Schedule set out below:

SCHEDULE 3

Veterans Health Administration Schedules, Department of Veterans Affairs

f(Effective on the first day of the first applicable pay period beginning on or after January 1, 2005)

	Minimum	Maximum
Schedule for the Office of the Under Secretary for Health (38 U.S.C. 7306)[1]		
Deputy Under Secretary for Health		[2]$152,207
Associate Deputy Under Secretary for Health		[3]145,786
Assistant Under Secretaries for Health		[3]141,488
Medical Directors	$120,718	[3]$136,818
Service Directors	105,113	130,543
Director, National Center for Preventive Health	89,625	130,543
Physician and Dentist Schedule		
Director Grade	$105,113	$130,543
Executive Grade	97,061	123,701
Chief Grade	89,625	116,517
Senior Grade	76,193	99,053
Intermediate Grade	64,478	83,819
Full Grade	54,221	70,484
Associate Grade	45,239	58,811
Clinical Podiatrist, Chiropractor, and Optometrist Schedule		
Chief Grade	$89,625	$116,517
Senior Grade	76,193	99,053
Intermediate Grade	64,478	83,819
Full Grade	54,221	70,484
Associate Grade	45,239	58,811
Physician Assistant and Expanded-Function Dental Auxiliary Schedule[4]		
Director Grade	$89,625	$116,517
Assistant Director Grade	76,193	99,053
Chief Grade	64,478	83,819
Senior Grade	54,221	70,484
Intermediate Grade	45,239	58,811
Full Grade	37,390	48,604
Associate Grade	32,175	41,832
Junior Grade	27,507	35,760

[1] This schedule does not apply to the Assistant Under Secretary for Nursing Programs or the Director of Nursing Services. Pay for these positions is set by the Under Secretary for Health under 38 U.S.C. 7451.

[2] Pursuant to section 3 of Public Law 108–445 and section 7404(d)(1) of title 38, United States Code, the rate of basic pay payable to this employee is limited to the rate for level IV of the Executive Schedule, which is $140,300.

[3] Pursuant to section 3 of Public Law 108–445 and section 7404(d)(2) of title 38, United States Code, the rate of basic pay payable to these employees is limited to the rate for level V of the Executive Schedule, which is $131,400.

[4] Pursuant to section 301(a) of Public Law 102–40, these positions are paid according to the Nurse Schedule in 38 U.S.C. 4107(b) [former section 4107(b) of Title 38, Veterans' Benefits] as in effect on August 14, 1990, with subsequent adjustments.

EXECUTIVE ORDER NO. 11413

Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641, which provided for adjustment of pay rates effective July 1, 1968, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5, Government Organization and Employees.

EXECUTIVE ORDER NO. 11474

Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605, which provided for adjustment of pay rates effective July 1, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11524

Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247, which provided for adjustment of pay rates effective first pay period on or after Dec. 27, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11576

Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347, which provided for adjustment of pay rates effective Jan. 1, 1971, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11637

Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911, which provided for adjustment of pay rates effective Jan. 1, 1972, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11691

Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607, as amended by Ex. Ord. No. 11777, Apr. 12, 1974, 39 F.R. 13519, which provided for adjustment of pay rates effective Oct. 1, 1972, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11739

Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581, which provided for adjustment of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11811

Ex. Ord. No. 11811, Oct. 7, 1975, 39 F.R. 3602, which provided for adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11883

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, which provided for adjustment of pay rates effective Oct. 1, 1975, was superseded by Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 11941

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43899, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, which provided for adjustment of pay rates effective Oct. 1, 1976, was superseded by Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12010

Ex. Ord. No. 12010, Sept. 28, 1977, 42 F.R. 52365, which provided for adjustment of pay rates effective Oct. 1, 1977, was superseded by Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12087

Ex. Ord. No. 12087, Oct. 7, 1978, 43 F.R. 46823, which provided for adjustment of pay rates effective Oct. 1, 1978, was superseded by Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12165

Ex. Ord. No. 12165, Oct. 9, 1979, 44 F.R. 58671, as amended by Ex. Ord. No. 12200, Mar. 12, 1980, 44 F.R. 16443, which provided for adjustment of pay rates effective Oct. 1, 1979, was superseded by Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12248

Ex. Ord. No. 12248, Oct. 16, 1980, 45 F.R. 69199, which provided for adjustment of pay rates effective Oct. 1, 1980, was superseded by Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12330

Ex. Ord. No. 12330, Oct. 15, 1981, 46 F.R. 50921, which provided for adjustment of pay rates effective Oct. 1, 1981, was superseded by Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12387

Ex. Ord. No. 12387, Oct. 8, 1982, 47 F.R. 44981, which provided for adjustment of pay rates effective Oct. 1, 1982, was superseded by Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12438

Ex. Ord. No. 12438, Aug. 23, 1983, 48 F.R. 39205, which related to review of increases in rates of basic pay for employees of the Veterans' Administration, was revoked by Ex. Ord. No. 12797, Apr. 3, 1992, 57 F.R. 11671, set out as a note under section 7455 of this title.

EXECUTIVE ORDER NO. 12456

Ex. Ord. No. 12456, Dec. 30, 1983, 49 F.R. 347, as amended by Ex. Ord. No. 12477, May 23, 1984, 49 F.R. 22041; Ex. Ord. No. 12487, Sept. 14, 1984, 49 F.R. 36493, which provided for adjustment of pay rates effective Jan. 1, 1984, was superseded by Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12496

Ex. Ord. No. 12496, Dec. 28, 1984, 50 F.R. 211, as amended by Ex. Ord. No. 12540, Dec. 30, 1985, 51 F.R. 577, which provided for adjustment of pay rates effective Jan. 1, 1985, was superseded by Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12578

Ex. Ord. No. 12578, Dec. 31, 1986, 52 F.R. 505, which provided for adjustment of pay rates effective Jan. 1, 1987, was superseded by Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12622

Ex. Ord. No. 12622, Dec. 31, 1987, 53 F.R. 222, which provided for adjustment of pay rates effective Jan. 1, 1988, was superseded by Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12663

Ex. Ord. No. 12663, Jan. 6, 1989, 54 F.R. 791, which provided for adjustment of pay rates effective Jan. 1, 1989, was superseded by Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12698

Ex. Ord. No. 12698, Dec. 23, 1989, 54 F.R. 53473, which provided for adjustment of pay rates effective Jan. 1, 1990, and Jan. 31, 1990, was superseded by Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12736

Ex. Ord. No. 12736, Dec. 12, 1990, 55 F.R. 51385, which provided for adjustment of pay rates effective Jan. 1, 1991, was superseded by Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12786

Ex. Ord. No. 12786, Dec. 26, 1991, 56 F.R. 67453, which provided for adjustment of pay rates effective Jan. 1, 1992, was superseded by Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12826

Ex. Ord. No. 12826, Dec. 30, 1992, 57 F.R. 62909, which provided for adjustment of pay rates effective Jan. 1, 1993, was superseded by Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12944

Ex. Ord. No. 12944, Dec. 28, 1994, 60 F.R. 309, which provided for adjustment of pay rates effective Jan. 1, 1995, was superseded by Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 12984

Ex. Ord. No. 12984, Dec. 28, 1995, 61 F.R. 237, which provided for adjustment of pay rates effective Jan. 1, 1996, was superseded by Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13033

Ex. Ord. No. 13033, Dec. 27, 1996, 61 F.R. 68987, which provided for adjustment of pay rates effective Jan. 1, 1997, was superseded by Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13071

Ex. Ord. No. 13071, Dec. 29, 1997, 62 F.R. 68521, which provided for adjustment of pay rates effective Jan. 1, 1998, was superseded by Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13106

Ex. Ord. No. 13106, Dec. 7, 1998, 63 F.R. 68151, which provided for adjustment of pay rates effective Jan. 1, 1999, was substantially superseded by Ex. Ord. No. 13144, Dec. 21, 1999, 64 F.R. 72237, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13144

Ex. Ord. No. 13144, Dec. 21, 1999, 64 F.R. 72237, which provided for adjustment of pay rates effective Jan. 1, 2000, was superseded by Ex. Ord. No. 13182, Dec. 23, 2000, 65 F.R. 82879, 66 F.R. 10057, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13182

Ex. Ord. No. 13182, Dec. 23, 2000, 65 F.R. 82879, 66 F.R. 10057, which provided for adjustment of pay rates effective Jan. 1, 2001, was superseded by Ex. Ord. No. 13249, Dec. 28, 2001, 67 F.R. 639, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13249

Ex. Ord. No. 13249, Dec. 28, 2001, 67 F.R. 639, which provided for adjustment of pay rates effective Jan. 1, 2002, was superseded by Ex. Ord. No. 13282, Dec. 31, 2002, 68 F.R. 1133, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13282

Ex. Ord. No. 13282, Dec. 31, 2002, 68 F.R. 1133, which provided for adjustment of pay rates effective Jan. 1, 2003, was superseded by Ex. Ord. No. 13322, Dec. 30, 2003, 69 F.R. 231.

EXECUTIVE ORDER NO. 13322

Ex. Ord. No. 13322, Dec. 30, 2003, 69 F.R. 231, which provided for adjustment of pay rates effective Jan. 1, 2004, was superseded by Ex. Ord. No. 13332, Mar. 3, 2004, 69 F.R. 10891, formerly set out as a note under section 5332 of Title 5.

EXECUTIVE ORDER NO. 13332

Ex. Ord. No. 13332, Mar. 3, 2004, 69 F.R. 10891, which provided for adjustment of pay rates effective Jan. 1, 2004, was superseded by Ex. Ord. No. 13368, Dec. 30, 2004, 70 F.R. 1147, set out as a note under section 5332 of Title 5.

§ 7405. Temporary full-time appointments, part-time appointments, and without-compensation appointments

(a) The Secretary, upon the recommendation of the Under Secretary for Health, may employ, without regard to civil service or classification laws, rules, or regulations, personnel as follows:

(1) On a temporary full-time basis, part-time basis, or without compensation basis, persons in the following positions:

(A) Positions listed in section 7401(1) of this title.

(B) Positions listed in section 7401(3) of this title.

(C) Librarians.

(D) Other professional, clerical, technical, and unskilled personnel (including interns, residents, trainees, and students in medical support programs).

(2) On a fee basis, persons in the following positions:

(A) Positions listed in section 7401(1) of this title.

(B) Positions listed in section 7401(3) of this title.

(C) Other professional and technical personnel.

(b) Personnel employed under subsection (a)—

(1) shall be in addition to personnel described in section 7306, paragraphs (1) and (3) of section 7401, and section 7408 of this title; and

(2) shall be paid such rates of pay as the Secretary may prescribe.

(c)(1) Temporary full-time appointments under this section of persons in positions listed in paragraphs (1) and (3) of section 7401 of this title may be for a period in excess of 90 days only if the Under Secretary for Health finds that circumstances render it impracticable to obtain the necessary services through appointments under that section.

(2) A temporary full-time appointment may not be made for a period in excess of two years in the case of a person who—

(A) has successfully completed—

(i) a full course of nursing in a recognized school of nursing, approved by the Secretary; or

(ii) a full course of training for any category of personnel described in paragraph (3) of section 7401 of this title, or as a physician assistant, in a recognized education or training institution approved by the Secretary; and

(B) is pending registration or licensure in a State or certification by a national board recognized by the Secretary.

(3)(A) Temporary full-time appointments of persons in positions referred to in subsection (a)(1)(D) shall not exceed three years.

(B) Temporary full-time appointments under this paragraph may be renewed for one or more additional periods not in excess of three years each.

(4) Temporary full-time appointments of other personnel may not be for a period in excess of one year except as authorized in subsection (f).

(d) A part-time appointment may not be for a period of more than one year, except for appointments of persons specified in subsection (a)(1)(A) and interns, residents, and other trainees in medical support programs and except as authorized in subsection (f).

(e) A student who has a temporary appointment under this section and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 7401 of this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program.

(f) During any period during which the Secretary is exercising the authority provided in subsections (a) and (f)(1) of section 7403 of this title in connection with the appointment, under paragraph (3) of section 7401 of this title, of personnel in a category of personnel described in such paragraph—

(1) the Secretary may make temporary full-time appointments of personnel in such category for periods exceeding 90 days if the Under Secretary for Health finds that circumstances render it impractical to obtain the necessary services through appointments under paragraph (3) of section 7401 of this title; and

(2) part-time appointments of personnel in such category may be for periods of more than one year.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 226; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 106–419, title II, § 204, Nov. 1, 2000, 114 Stat. 1842; Pub. L. 108–170, title III, § 301(c), Dec. 6, 2003, 117 Stat. 2057.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4114(a) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2003—Subsec. (a)(1)(B), (C). Pub. L. 108–170, § 301(c)(1)(A), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

''(B) Certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

''(C) Dietitians, social workers, and librarians.''

Subsec. (a)(2)(B). Pub. L. 108–170, § 301(c)(1)(B), added subpar. (B) and struck out former subpar. (B) which read as follows: ''Certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.''

Subsec. (c)(1). Pub. L. 108–170, § 301(c)(2), substituted ''paragraphs (1) and (3) of section 7401'' for ''section 7401(1)''.

2000—Subsec. (c)(2). Pub. L. 106–419, § 204(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing, approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 7401 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years.''

Subsec. (c)(3), (4). Pub. L. 106–419, § 204(b), added par. (3) and redesignated former par. (3) as (4).

1992—Subsecs. (a), (c)(1), (f)(1). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

§ 7406. Residencies and internships

(a)(1) The Secretary may establish residencies and internships. The Secretary may appoint qualified persons to such positions without regard to civil service or classification laws, rules, or regulations.

(2) For the purposes of this section:

(A) The term ''internship'' includes the equivalency of an internship as determined in accordance with regulations which the Secretary shall prescribe.

(B) The term ''intern'' means a person serving an internship.

(b) The Secretary may prescribe the conditions of employment of persons appointed under this section, including necessary training, and the customary amount and terms of pay for such positions during the period of such employment and training. The amount and terms of such pay may be established retroactively based on changes in such customary amount and terms.

(c)(1) In order to carry out more efficiently the provisions of subsection (a)(1), the Secretary may contract with one or more hospitals, medical schools, or medical installations having hospital facilities and participating with the Department in the training of interns or residents to provide, by the designation of one such institution to serve as a central administrative agency, for the central administration—

(A) of stipend payments;

(B) provision of fringe benefits; and

(C) maintenance of records for such interns and residents.

(2) The Secretary may pay to such designated agency, without regard to any other law or regulation governing the expenditure of Government moneys either in advance or in arrears, an amount to cover the cost for the period such intern or resident serves in a Department facility furnishing hospital care or medical services of—

(A) stipends fixed by the Secretary pursuant to paragraph (1);

(B) hospitalization, medical care, and life insurance and any other employee benefits as are agreed upon by the participating institutions for the period that such intern or resident serves in a Department facility furnishing hospital care or medical services;

(C) tax on employers pursuant to chapter 21 of the Internal Revenue Code of 1986, where applicable; and

(D) an amount to cover a pro rata share of the cost of expense of such central administrative agency.

(3)(A) Any amounts paid by the Secretary to such central administrative agency to cover the cost of hospitalization, medical care, or life insurance or other employee benefits shall be in lieu of any benefits of like nature to which such intern or resident may be entitled under the provisions of title 5, and the acceptance of stipends and employee benefits from the designated central administrative agency shall constitute a waiver by the recipient of any claim such recipient might have to any payment of stipends or employee benefits to which such recipient may be entitled under this title or title 5.

(B) Notwithstanding subparagraph (A), any period of service of any such intern or resident in a Department facility furnishing hospital care or medical services shall be deemed creditable service for the purposes of section 8332 of title 5.

(4) The agreement with such central administrative agency may further provide that the designated central administrative agency shall—

(A) make all appropriate deductions from the stipend of each intern and resident for local, State, and Federal taxes;

(B) maintain all records pertinent to such deductions and make proper deposits of such deductions; and

(C) maintain all records pertinent to the leave accrued by such intern and resident for the period during which such recipient serves in a participating facility, including a Department facility furnishing hospital care or medical services.

(5) Leave described in paragraph (4)(C) may be pooled, and the intern or resident may be afforded leave by the facility in which such person is serving at the time the leave is to be used to the extent of such person's total accumulated leave, whether or not earned at the facility in which such person is serving at the time the leave is to be afforded.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 227; amended Pub. L. 104–262, title III, § 345, Oct. 9, 1996, 110 Stat. 3208.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(1), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsec. (a)(1), are classified generally to chapter 51 (§ 5101 et seq.) and to subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

Chapter 21 of the Internal Revenue Code of 1986, referred to in subsec. (c)(2)(C), is classified to chapter 21 (§ 3101 et seq.) of Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4114(b) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1996—Subsec. (c)(2), (3)(B). Pub. L. 104–262, § 345(1), substituted "Department facility furnishing hospital care or medical services" for "Department hospital" wherever appearing.

Subsec. (c)(4)(C). Pub. L. 104–262, § 345(2), substituted "participating facility" for "participating hospital".

Pub. L. 104–262, § 345(1), substituted "Department facility furnishing hospital care or medical services" for "Department hospital".

Subsec. (c)(5). Pub. L. 104–262, § 345(3), substituted "facility" for "hospital" in two places.

§ 7407. Administrative provisions for section 7405 and 7406 appointments

(a) When the Under Secretary for Health determines that it is not possible to recruit qualified citizens for the necessary services, appointments under sections 7405 and 7406 of this title may be made without regard to the citizenship requirements of section 7402(c) of this title or of any other law prohibiting the employment of, or payment of compensation to, a person who is not a citizen of the United States.

(b)(1) Subject to paragraph (2), the Under Secretary for Health may waive for the purpose of the appointment of an individual under section 7405 or 7406 of this title the requirements set forth in section 7402(b) of this title—

(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

(B) that the licensure or certification of such an individual be in a State; and

(C) that a psychologist have completed an internship.

(2) The waivers authorized in paragraph (1) may be granted—

(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.

(c) The program of training prescribed by the Secretary in order to qualify a person for the position of full-time physician assistant or expanded-function dental auxiliary shall be considered a full-time institutional program for purposes of chapter 34 of this title. The Sec-

retary may consider training for such a position to be on a less than full-time basis for purposes of such chapter when the combined classroom (and other formal instruction) portion of the program and the on-the-job training portion of the program total less than 30 hours per week.

(d) A person may not be appointed under section 7405 or 7406 of this title to an occupational category described in section 7401(1) of this title or in section 7406 of this title unless the person meets the requirements established in section 7402(d) of this title and regulations prescribed under that section.

(e) In accordance with the provisions of section 7425(b) of this title, the provisions of chapter 34 of title 5 pertaining to part-time career employment shall not apply to part-time appointments under sections 7405 and 7406 of this title.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 228; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4114(c)–(g) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Subsecs. (a), (b)(1). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

§ 7408. Appointment of additional employees

(a) There shall be appointed by the Secretary under civil service laws, rules, and regulations, such additional employees, other than those provided in section 7306 and paragraphs (1) and (3) of section 7401 of this title and those specified in sections 7405 and 7406 of this title, as may be necessary to carry out the provisions of this chapter.

(b) The Secretary, after considering an individual's existing pay, higher or unique qualifications, or the special needs of the Department, may appoint the individual to a position in the Administration providing direct patient-care services or services incident to direct patient-services at a rate of pay above the minimum rate of the appropriate grade.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 229; amended Pub. L. 103–446, title XII, § 1201(e)(21), Nov. 2, 1994, 108 Stat. 4686.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly section 3301 et seq. of Title 5.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4111 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 substituted ''civil service'' for ''civil-service''.

§ 7409. Contracts for scarce medical specialist services

(a) The Secretary may enter into contracts with institutions and persons described in subsection (b) to provide scarce medical specialist services at Department facilities. Such services may include the services of physicians, dentists, podiatrists, optometrists, chiropractors, nurses, physician assistants, expanded-function dental auxiliaries, technicians, and other medical support personnel.

(b) Institutions and persons with whom the Secretary may enter into contracts under subsection (a) are the following:

(1) Schools and colleges of medicine, osteopathy, dentistry, podiatry, optometry, and nursing.

(2) Clinics.

(3) Any other group or individual capable of furnishing such scarce medical specialist services.

(Added Pub. L. 102–40, title IV, § 401(b)(2), May 7, 1991, 105 Stat. 229; amended Pub. L. 108–170, title III, § 302(f), Dec. 6, 2003, 117 Stat. 2058.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4117 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–170 inserted ''chiropractors,'' after ''optometrists,'' in second sentence.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108–170, set out as a note under section 7316 of this title.

§ 7410. Additional pay authorities

The Secretary may authorize the Under Secretary for Health to pay advance payments, recruitment or relocation bonuses, and retention allowances to the personnel described in paragraph (1) of section 7401 of this title, or interview expenses to candidates for appointment as such personnel, in the same manner, and subject to the same limitations, as in the case of the authority provided under sections 5524a, 5706b, 5753, and 5754 of title 5.

(Added Pub. L. 102–40, title I, § 103(a)[(1)], May 7, 1991, 105 Stat. 198; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

§ 7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses

The Secretary shall reimburse any full-time board-certified physician or dentist appointed under section 7401(1) of this title for expenses incurred, up to $1,000 per year, for continuing professional education.

(Added Pub. L. 102–40, title I, § 103(a)[(1)], May 7, 1991, 105 Stat. 199.)

EFFECTIVE DATE

Section 103(b) of Pub. L. 102–40 provided that: ''Section 7411 of title 38, United States Code, as added by subsection (a), shall apply with respect to expenses in-

curred for continuing professional education that is pursued after September 30, 1991.''

SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

§ 7421. Personnel administration: in general

(a) Notwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of this chapter in positions in the Veterans Health Administration listed in subsection (b).

(b) Subsection (a) refers to the following positions:

(1) Physicians.
(2) Dentists.
(3) Podiatrists.
(4) Optometrists.
(5) Registered nurses.
(6) Physician assistants.
(7) Expanded-duty dental auxiliaries.
(8) Chiropractors.

(Added Pub. L. 102–40, title II, § 202, May 7, 1991, 105 Stat. 200; amended Pub. L. 108–170, title III, § 302(g), Dec. 6, 2003, 117 Stat. 2058.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4108(a) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2003—Subsec. (b)(8). Pub. L. 108–170 added par. (8).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–170 effective at end of 180-day period beginning on Dec. 6, 2003, see section 302(h) of Pub. L. 108–170, set out as a note under section 7316 of this title.

PRESERVATION OF EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS AND PENDING ACTIONS

Section 205 of Pub. L. 102–40 provided that:

''(a) EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS.—Any determination under chapter 71 of title 5, United States Code, of a collective bargaining unit within the Veterans Health Administration of the Department of Veterans Affairs, and any recognition under that chapter of an employee labor organization as the exclusive bargaining representative for employees in a collective bargaining unit of the Department of Veterans Affairs, that is in effect on the date of the enactment of this Act [May 7, 1991] shall not be affected by the amendments made by this Act [see Tables for classification] and shall continue in effect in accordance with the terms of such determination or regulation.

''(b) PENDING CASES.—With respect to cases pending on the date of the enactment of this Act [May 7, 1991], or those cases which are brought before the establishment of either an administrative grievance procedure pursuant to section 7463 of title 38, United States Code (as added by the amendments made by this title), or a negotiated grievance procedure established under a collective bargaining agreement, such cases shall proceed in the same manner as they would have if this Act [see Tables for classification] had not been enacted.''

§ 7422. Collective bargaining

(a) Except as otherwise specifically provided in this title, the authority of the Secretary to prescribe regulations under section 7421 of this title is subject to the right of Federal employees to engage in collective bargaining with respect to conditions of employment through representatives chosen by them in accordance with chapter 71 of title 5 (relating to labor-management relations).

(b) Such collective bargaining (and any grievance procedures provided under a collective bargaining agreement) in the case of employees described in section 7421(b) of this title may not cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title.

(c) For purposes of this section, the term ''professional conduct or competence'' means any of the following:

(1) Direct patient care.
(2) Clinical competence.

(d) An issue of whether a matter or question concerns or arises out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title shall be decided by the Secretary and is not itself subject to collective bargaining and may not be reviewed by any other agency.

(e) A petition for judicial review or petition for enforcement under section 7123 of title 5 in any case involving employees described in section 7421(b) of this title or arising out of the applicability of chapter 71 of title 5 to employees in those positions, shall be taken only in the United States Court of Appeals for the District of Columbia Circuit.

(Added Pub. L. 102–40, title II, § 202, May 7, 1991, 105 Stat. 200.)

§ 7423. Personnel administration: full-time employees

(a) The hours of employment in carrying out responsibilities under this title of any employee who is appointed in the Administration under any provision of this chapter on a full-time basis in a position listed in section 7421(b) of this title (other than an intern or resident appointed pursuant to section 7406 of this title) and who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title shall consist of not less than 80 hours in a biweekly pay period (as that term is used in section 5504 of title 5).

(b) A person covered by subsection (a) may not do any of the following:

(1) Teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title.

(2) Accept payment under any insurance or assistance program established under title XVIII or XIX of the Social Security Act or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title.

(3) Accept from any source, with respect to any travel performed by such person in the

course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5.

(4) Request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title.

(5) Perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both.

(c) In the case of any fund or account described in subsection (b)(5) that was established before September 1, 1973—

(1) the affiliated institution shall submit semiannually an accounting to the Secretary and to the Comptroller General of the United States with respect to such fund or account and shall maintain such fund or account subject to full public disclosure and audit by the Secretary and the Comptroller General for a period of three years or for such longer period as the Secretary shall prescribe, and

(2) no person in a position specified in paragraph (1)(B) may receive any cash from amounts deposited in such fund or account derived from services performed before that date.

(d) As used in this section:

(1) The term ''affiliated institution'' means a medical school or other institution of higher learning with which the Secretary has a contract or agreement as referred to in section 7313 of this title for the training or education of health personnel.

(2) The term ''remuneration'' means the receipt of any amount of monetary benefit from any non-Department source in payment for carrying out any professional responsibilities.

(e)(1) The Secretary shall establish a leave transfer program for the benefit of health-care professionals in positions listed in section 7401(1) of this title. The Secretary may also establish a leave bank program for the benefit of such health-care professionals.

(2) To the maximum extent feasible—

(A) the leave transfer program shall provide the same or similar requirements and conditions as are provided for the program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5; and

(B) any leave bank program established pursuant to paragraph (1) shall be consistent with the requirements and conditions provided for agency leave bank programs in subchapter IV of such chapter.

(3) Participation by a health-care professional in the leave transfer program established pursuant to paragraph (1), and in any leave bank program established pursuant to such paragraph, shall be voluntary. The Secretary may not require any health-care professional to participate in such a program.

(4)(A) The Secretary and the Director of the Office of Personnel Management may enter into an agreement that permits health-care professionals referred to in paragraph (1) to participate in the leave transfer program established by the Director of the Office of Personnel Management under subchapter III of chapter 63 of title 5 or in any leave bank program established for other employees of the Department pursuant to subchapter IV of chapter 63 of title 5, or both.

(B) Participation of such health-care professionals in a leave transfer program or a leave bank program pursuant to an agreement entered into under subparagraph (A) shall be subject to such requirements and conditions as may be prescribed in such agreement.

(5) The Secretary is not required to establish a leave transfer program for any personnel permitted to participate in a leave transfer program pursuant to an agreement referred to in paragraph (4).

(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.

(Added and amended Pub. L. 102–40, title II, § 202, title IV, § 401(b)(3)(A), May 7, 1991, 105 Stat. 201, 230; Pub. L. 102–405, title II, § 203, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984; Pub. L. 104–262, title III, § 347, Oct. 9, 1996, 110 Stat. 3208.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4108(a), (c), and (e) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–262, § 347(a), redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out former par. (1) which read as follows: ''Assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Department facility, except in those cases where the person, upon request and with the approval of the Under Secretary for Health, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed 180 calendar days, which may be extended by the Under Secretary for Health for additional periods not to exceed 180 calendar days each.''

Subsec. (c). Pub. L. 104–262, § 347(b), substituted ''subsection (b)(5)'' for ''subsection (b)(6)'' in introductory provisions.

1992—Subsec. (b)(1). Pub. L. 102–405, § 302(c)(1), substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in two places.

Subsec. (f). Pub. L. 102–405, § 203, added subsec. (f).

1991—Subsec. (e). Pub. L. 102–40, § 401(b)(3)(A), added subsec. (e).

ESTABLISHMENT OF LEAVE BANK PROGRAM

For provision authorizing the establishment of a leave bank program for health-care professional covered under subsec. (e) of former section 4108 of this title [now covered by subsec. (e) of this section] similar to the leave bank program for Federal civilian employees in reserves who were activated during Persian Gulf War, see section 361 of Pub. L. 102–25, set out as a Leave Bank for Federal Civilian Employees in Reserves Who Were Activated During Persian Gulf War note under section 6361 of Title 5, Government Organization and Employees.

§ 7424. Travel expenses of certain employees

(a) The Secretary may pay the expenses (other than membership fees) of persons described in sections 7306 and 7401(1) of this title (including persons in positions described in section 7401(1) of this title who are appointed on a temporary full-time basis or a part-time basis under section 7405 of this title) who are detailed by the Under Secretary for Health to attend meetings of associations for the promotion of medical and related science.

(b)(1) The Secretary may prescribe regulations establishing conditions under which officers and employees of the Administration who are nationally recognized principal investigators in medical research may be permitted to accept payment, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel and such reasonable subsistence expenses as are approved by the Secretary pursuant to such regulations—

(A) in connection with their attendance at meetings or in performing advisory services concerned with the functions or activities of the Department; or

(B) in connection with acceptance of significant awards or with activity related thereto concerned with functions or activities of the Department.

(2) Any such payment may be retained by such officers and employees to cover the cost of such expenses or shall be deposited to the credit of the appropriation from which the cost of such expenses is paid, as may be provided in such regulations.

(Added Pub. L. 102–40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 230; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4108(d) and 4113 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

§ 7425. Employees: laws not applicable

(a) Physicians, dentists, nurses, and other health-care professionals employed by the Administration and appointed under section 7306, 7401(1), 7405, or 7406 of this chapter are not subject to the following provisions of law:

(1) Section 413 of the Civil Service Reform Act of 1978.

(2) Subchapter II of chapter 31 of title 5.

(3) Subchapter VIII of chapter 33 of title 5.

(4) Subchapter V of chapter 35 of title 5.

(5) Subchapter II of chapter 43 of title 5.

(6) Section 4507 of title 5.

(7) Subchapter VIII of chapter 53 of title 5.

(8) Subchapter V of chapter 75 of title 5.

(b) Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of section 7306 of this title or this chapter shall be considered to supersede, override, or otherwise modify such provision of that section or this chapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this chapter, or such provision to be superseded, overridden, or otherwise modified.

(Added Pub. L. 102–40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 231.)

REFERENCES IN TEXT

Section 413 of the Civil Service Reform Act of 1978, referred to in subsec. (a)(1), is section 413 of Pub. L. 95–454, title IV, Oct. 13, 1978, 92 Stat. 1175, which is set out as a note under section 3133 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4101(e) and 4119 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

§ 7426. Retirement rights

(a) Except as provided in subsection (b), persons appointed to the Administration shall be subject to the provisions of and entitled to benefits under subchapter III of chapter 83 of title 5 or subchapter II of chapter 84 of title 5, whichever is applicable.

(b)(1) In computing the annuity under subchapter III of chapter 83, or subchapter II of chapter 84, of title 5 of an individual who retires under such subchapter (other than under section 8337 or 8451 of such title) after December 31, 1981, and who served at any time on a less-than-full-time basis in a position in the Administration to which such individual was appointed under subchapter I—

(A) for the purpose of determining such individual's average pay, as defined by section 8331(4) or 8401(3) of title 5, whichever is applicable, the annual rate of basic pay for full-time service shall be deemed to be such individual's rate of basic pay; and

(B) the amount of such individual's annuity as computed under section 8339 or 8415 of title 5 (before application of any reduction required by subsection (i) of section 8339) shall be multiplied by the fraction equal to the ratio that that individual's total full-time equivalent service bears to that individual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable.

(2) For the purposes of paragraph (1)(B), an individual's full-time equivalent service is the in-

dividual's creditable service as determined under section 8332 or 8411 of title 5, whichever is applicable, except that any period of service of such individual served on a less-than-full-time basis shall be prorated based on the fraction such service bears to full-time service. For the purposes of the preceding sentence, full-time service shall be considered to be 80 hours of service per biweekly pay period.

(3) A survivor annuity computed under section 8341, or subchapter IV of chapter 84, of title 5 based on the service of an individual described in paragraph (1) shall be computed based upon such individual's annuity as determined in accordance with such paragraph.

(c) The provisions of subsection (b) shall not apply to the part-time service before April 7, 1986, of a registered nurse, physician assistant, or expanded-function dental auxiliary. In computing the annuity under the applicable provision of law specified in that subsection of an individual covered by the preceding sentence, the service described in that sentence shall be credited as full-time service.

(Added Pub. L. 102–40, title IV, § 401(b)(3)(B), May 7, 1991, 105 Stat. 231; amended Pub. L. 102–585, title V, § 522, Nov. 4, 1992, 106 Stat. 4959; Pub. L. 106–398, § 1 [[div. A], title X, § 1087(g)(5)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294; Pub. L. 107–135, title I, § 132, Jan. 23, 2002, 115 Stat. 2454.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 4107(i) and 4109 of this title prior to the repeal of those sections as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–135 added subsec. (c).

2000—Subsec. (c). Pub. L. 106–398 struck out subsec. (c) which read as follows: "The Secretary may authorize an exception to the restrictions in subsections (a), (b), and (c) of section 5532 of title 5 if necessary to meet special or emergency employment needs which result from a severe shortage of well-qualified candidates in physician positions, and registered nurse positions, which otherwise cannot be readily met. The authority of the Secretary under the preceding sentence with respect to registered-nurse positions expires on December 31, 1994."

1992—Subsec. (c). Pub. L. 102–585 substituted "December 31, 1994" for "September 30, 1992".

SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

CODIFICATION

This subchapter was originally added by Pub. L. 102–40, May 7, 1991, 105 Stat. 187, and amended by Pub. L. 102–405, Oct. 9, 1992, 106 Stat. 1972; Pub. L. 104–262, Oct. 9, 1996, 110 Stat. 3177; Pub. L. 103–446, Nov. 2, 1994, 108 Stat. 4645; Pub. L. 106–419, Nov. 1, 2000, 114 Stat. 1822. This subchapter is shown here, however, as having been added by Pub. L. 108–445, § 3(b), Dec. 3, 2004, 118 Stat. 2636, without reference to those intervening amendments because of the general amendment of this subchapter by Pub. L. 108–445.

AMENDMENTS

2004—Pub. L. 108–445, § 3(b), Dec. 3, 2004, 118 Stat. 2636, substituted "PAY FOR PHYSICIANS AND DENTISTS" for "SPECIAL PAY FOR PHYSICIANS AND DENTISTS" in subchapter heading.

§ 7431. Pay

(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

(1) Base pay as provided for under subsection (b).

(2) Market pay as provided for under subsection (c).

(3) Performance pay as provided under subsection (d).

(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

For a physician or dentist with total service of:	The rate of base pay is the rate payable for:
two years or less	step 1
more than 2 years and not more than 4 years	step 2
more than 4 years and not more than 6 years	step 3
more than 6 years and not more than 8 years	step 4
more than 8 years and not more than 10 years	step 5
more than 10 years and not more than 12 years	step 6
more than 12 years and not more than 14 years	step 7
more than 14 years and not more than 16 years	step 8
more than 16 years and not more than 18 years	step 9
more than 18 years and not more than 20 years	step 10
more than 20 years and not more than 22 years	step 11
more than 22 years and not more than 24 years	step 12
more than 24 years and not more than 26 years	step 13
more than 26 years and not more than 28 years	step 14
more than 28 years	step 15.

(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

(1) Each physician and dentist is eligible for market pay.

(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by

the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.

(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.

(4)(A) In determining the amount of market pay for physicians or dentists, the Secretary shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians or dentists, as applicable.

(B)(i) In determining the amount of the market pay for a particular physician or dentist under this subsection, and in determining a tier (if any) to apply to a physician or dentist under subsection (e)(1)(B), the Secretary shall consult with and consider the recommendations of an appropriate panel or board composed of physicians or dentists (as applicable).

(ii) A physician or dentist may not be a member of the panel or board that makes recommendations under clause (i) with respect to the market pay of such physician or dentist, as the case may be.

(iii) The Secretary should, to the extent practicable, ensure that a panel or board consulted under this subparagraph includes physicians or dentists (as applicable) who are practicing clinicians and who do not hold management positions in the medical facility of the Department at which the physician or dentist subject to the consultation is employed.

(5) The determination of the amount of market pay of a physician or dentist shall take into account—

(A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;

(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;

(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;

(D) the board certifications, if any, of the physician or dentist;

(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

(F) such other considerations as the Secretary considers appropriate.

(6) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is evaluated under this paragraph shall receive written notice of the results of such evaluation in accordance with procedures prescribed under section 7433 of this title.

(7) No adjustment of the amount of market pay of a physician or dentist under paragraph (6) may result in a reduction of the amount of market pay of the physician or dentist while in the same position or assignment at the medical facility of the Department concerned.

(d) PERFORMANCE PAY.—(1) One element of pay for physicians and dentists shall be performance pay.

(2) Performance pay shall be paid to a physician or dentist on the basis of the physician's or dentist's achievement of specific goals and performance objectives prescribed by the Secretary.

(3) The Secretary shall ensure that each physician and dentist of the Department is advised of the specific goals or objectives that are to be measured by the Secretary in determining the eligibility of that physician or dentist for performance pay.

(4) The amount of the performance pay payable to a physician or dentist may vary annually on the basis of individual achievement or attainment of the goals or objectives applicable to the physician or dentist under paragraph (2).

(5) The amount of performance pay payable to a physician or dentist in a fiscal year shall be determined in accordance with regulations prescribed by the Secretary, but may not exceed the lower of—

(A) $15,000; or

(B) the amount equal to 7.5 percent of the sum of the base pay and the market pay payable to such physician or dentist in that fiscal year.

(6) A failure to meet goals or objectives applicable to a physician or dentist under paragraph (2) may not be the sole basis for an adverse personnel action against that physician or dentist.

(e) REQUIREMENTS AND LIMITATIONS ON TOTAL PAY.—(1)(A) Not less often than once every two years, the Secretary shall prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid under this section to physicians and the minimum and maximum amounts of annual pay that may be paid under this section to dentists.

(B) The Secretary may prescribe for Department-wide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or assignment. If the Secretary prescribes separate minimum and maximum amounts for a specialty or assignment, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or assignment and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

(C) Amounts prescribed under this paragraph shall be published in the Federal Register, and shall not take effect until at least 60 days after the date of publication.

(2) Except as provided in paragraph (3) and subject to paragraph (4), the sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may not be less than the minimum amount, nor more than the maximum amount, applicable to specialty or assignment of the physician or dentist under paragraph (1).

(3) The sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may exceed the maximum amount applicable to the specialty or assignment of the physician or dentist under paragraph (1) as a result of an adjustment under paragraph (3) or (4) of subsection (b).

(4) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

(f) TREATMENT OF PAY.—Pay under subsections (b) and (c) of this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—(1) A decrease in pay of a physician or dentist resulting from an adjustment in the amount of market pay of the physician or dentist under subsection (c) shall not be treated as an adverse action.

(2) If the pay of a physician or dentist is reduced under this subchapter as a result of an involuntary reassignment in connection with a disciplinary action taken against the physician or dentist, the involuntary reassignment shall be subject to appeal under subchapter V of this chapter.

(h) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c), (d), or (e) except for the responsibilities of the Secretary under subsection (e)(1).(Added Pub. L. 108–445, § 3(b), Dec. 3, 2004, 118 Stat. 2636.)

PRIOR PROVISIONS

A prior section 7431, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 188; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984, related to authority of Secretary to provide for special pay, prior to the general amendment of this subchapter by Pub. L. 108–445.

EFFECTIVE DATE

Pub. L. 108–445, § 3(d), Dec. 3, 2004, 118 Stat. 2641, provided that:

''(1) Notwithstanding the 60-day waiting requirement in section 7431(e)(1)(C) of title 38, United States Code (as amended by subsection (b)), pay provided for a physician or dentist under subchapter III of chapter 74 of such title, as amended by subsection (b), shall take effect on the first day of the first pay period applicable to such physician or dentist that begins on or after January 1, 2006.

''(2) Pay provided for the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, as amended by this section shall take effect on the first day of the first pay period applicable to the Under Secretary that begins on or after January 1, 2006.''

TRANSITION PROVISIONS

Pub. L. 108–445, § 3(e), Dec. 3, 2004, 118 Stat. 2641, provided that:

''(1) PHYSICIANS AND DENTISTS.—

''(A) PAY.—(i) The amount of the pay payable on and after the date of the enactment of this Act [Dec. 3, 2004] to a physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before such date shall continue to be determined under such section (as in effect on the day before such date) until the effective date that is applicable under subsection (d) [set out as a note above] to such physician or dentist, as the case may be.

''(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

''(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

''(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

''(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

''(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

''(D) PRESERVATION OF PAY.—The amount of pay paid to a physician or dentist after the effective date of this Act shall not be less than the amount of pay paid to such physician or dentist on the day before the effective date of this Act while such physician or dentist remains in the same position or assignment.

''(2) UNDER SECRETARY FOR HEALTH.—

''(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapters I and III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act [Dec. 3, 2004] shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) [set out as a note above] to the Under Secretary.

''(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date applicable under subsection (d) to the Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

''(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning

on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to the Under Secretary—

''(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and

''(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.''

INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS

Pub. L. 108–445, § 3(c), Dec. 3, 2004, 118 Stat. 2641, provided that: ''The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

"Base Pay Step:	Rate of Pay:
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$126,000
14	$129,000
15	$132,000.''

§ 7432. Pay of Under Secretary for Health

(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

(c) TREATMENT OF PAY.—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.(Added Pub. L. 108–445, § 3(b), Dec. 3, 2004, 118 Stat. 2640.)

PRIOR PROVISIONS

A prior section 7432, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 189; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title III, § 346, Oct. 9, 1996, 110 Stat. 3208, related to written agreements for special pay, prior to the general amendment of this subchapter by Pub. L. 108–445.

§ 7433. Administrative matters

(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

(2) Each report under this subsection shall include the following:

(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.(Added Pub. L. 108–445, § 3(b), Dec. 3, 2004, 118 Stat. 2640.)

PRIOR PROVISIONS

Prior sections 7433 to 7440 were omitted in the general amendment of this subchapter by Pub. L. 108–445.

Section 7433, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 191; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(e)(22), Nov. 2, 1994, 108 Stat. 4686, related to special pay for full-time physicians.

Section 7434, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 192, related to special pay of part-time physicians.

Section 7435, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 193; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(e)(22), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 106–419, title II, § 202(a)–(f), Nov. 1, 2000, 114 Stat. 1840, 1841, related to special pay of full-time dentists.

Section 7436, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 194, related to special pay of part-time dentists.

Section 7437, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 194; amended Pub. L. 102–405, title II, § 204(a), title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984, related to general provisions concerning special pay of physicians and dentists.

Section 7438, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 196; amended Pub. L. 106–419, title II, § 202(g), Nov. 1, 2000, 114 Stat. 1841, related to coordination of special pay with other benefits laws.

Section 7439, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 197, related to periodic review and quadrennial reports regarding pay of physicians and dentists.

Section 7440, added Pub. L. 102–40, title I, § 102, May 7, 1991, 105 Stat. 198; amended Pub. L. 103–446, title XII, § 1201(c)(6), Nov. 2, 1994, 108 Stat. 4684, related to annual reports of the use of authorities provided in this subchapter.

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

§ 7451. Nurses and other health-care personnel: competitive pay

(a)(1) It is the purpose of this section to ensure, by a means providing increased responsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions on a part-time basis) are sufficient for that facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as ''covered positions'') are the following:

(A) Registered nurse.

(B) Such positions referred to in paragraphs (1) and (3) of section 7401 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Under Secretary for Health.

(3)(A) Except as provided in subparagraph (B), the rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 7404 of this title or chapter 53 of title 5.

(B) Under such regulations as the Secretary shall prescribe, the Secretary shall establish and adjust the rates of basic pay for covered positions at the following health-care facilities in order to provide rates of basic pay that enable the Secretary to recruit and retain sufficient numbers of health-care personnel in such positions at those facilities:

(i) The Veterans Memorial Medical Center in the Republic of the Philippines.

(ii) Department of Veterans Affairs health-care facilities located outside the contiguous States, Alaska, and Hawaii.

(4) The Secretary, after receiving the recommendation of the Under Secretary for Health, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 7452 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration.

(b) The Secretary shall maintain the five grade levels for nurses employed by the Department under section 7401(1) of this title as specified in the Nurse Schedule in section 7404(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g),[1] provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

(3) The range of basic pay for each such grade shall be divided into equal increments, known as ''steps''. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

(d)(1) Subject to subsection (e), the rates of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

(A) whenever there is an adjustment under section 5303 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date and to be by the same percentage as the adjustment in the rates of basic pay under the General Schedule; and

(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, or the Under Secretary for Health, with respect to covered Regional and Central Office employees in that grade, determines.

[1] See References in Text note below.

(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Except as provided in paragraph (1)(A), such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of that facility shall conduct a survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. To the extent practicable, the director shall use third-party industry wage surveys to meet the requirements of the preceding sentence. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making industry-wage surveys except to the extent determined infeasible by the Secretary. To the extent practicable, all surveys conducted pursuant to this subparagraph or subparagraph (A) shall include the collection of salary midpoints, actual salaries, lowest and highest salaries, average salaries, bonuses, incentive pays, differential pays, actual beginning rates of pay, and such other information needed to meet the purpose of this section. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed or published, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

(C)(i) A director of a Department health-care facility may use data on the compensation paid to certified registered nurse anesthetists who are employed on a salary basis by entities that provide anesthesia services through certified registered nurse anesthetists in the labor-market area only if the director—

(I) has conducted a survey of compensation for certified registered nurse anesthetists in the local labor-market area of the facility under subparagraph (B);

(II) has used all available administrative authority with regard to collection of survey data; and

(III) makes a determination (under regulations prescribed by the Secretary) that such survey methods are insufficient to permit the adjustments referred to in subparagraph (B) for such nurse anesthetists employed by the facility.

(ii) For the purposes of this subparagraph, certified registered nurse anesthetists who are so employed by such entities shall be deemed to be corresponding health-care professionals to the certified registered nurse anesthetists employed by the facility.

(D) The Under Secretary for Health shall prescribe regulations providing for the adjustment of the rates of basic pay for Regional and Central Office employees in covered positions in order to assure that those rates are sufficient and competitive.

(E) The director of a facility or Under Secretary for Health may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for that grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

(4) If the director of a Department health-care facility, or the Under Secretary for Health with respect to Regional and Central Office employees, determines, after any survey under paragraph (3)(B) that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made.

(5) Information collected by the Department in surveys conducted under this subsection is not subject to disclosure under section 552 of title 5.

(6) In this subsection—

(A) The term ''beginning rate of compensation'', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

(B) The term ''corresponding'', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

(e)(1) An adjustment in a rate of basic pay under subsection (d) may not reduce the rate of basic pay applicable to any grade of a covered position.

(2) The director of a Department health-care facility, in determining whether to carry out a wage survey under subsection (d)(3) with respect to rates of basic pay for a grade of a covered position, may not consider as a factor in such determination the absence of a current recruitment or retention problem for personnel in that grade of that position. The director shall make such a determination based upon whether, in accordance with criteria established by the Secretary, there is a significant pay-related staffing problem at that facility in any grade for a position. If the director determines that there is such a problem, or that such a problem is likely to exist in the near future, the Director shall provide for a wage survey in accordance with subsection (d)(3).

(3) The Under Secretary for Health may, to the extent necessary to carry out the purposes of subsection (d), modify any determination made by the director of a Department health-care facility with respect to adjusting the rates of basic pay applicable to covered positions. If the determination of the director would result in an adjustment in rates of basic pay applicable to covered positions, any action by the Under Secretary under the preceding sentence shall be made before the effective date of such pay adjustment. Upon such action by the Under Secretary, any adjustment shall take effect on the first day of the first pay period beginning after such action. The Secretary shall ensure that the Under Secretary establishes a mechanism for the timely exercise of the authority in this paragraph.

(4) Each director of a Department health-care facility shall provide to the Secretary, not later than July 31 each year, a report on staffing for covered positions at that facility. The report shall include the following:

(A) Information on turnover rates and vacancy rates for each covered position, including a comparison of those rates with the rates for the preceding three years.

(B) The director's findings concerning the review and evaluation of the facility's staffing situation, including whether there is, or is likely to be, in accordance with criteria established by the Secretary, a significant pay-related staffing problem at that facility for any covered position and, if so, whether a wage survey was conducted, or will be conducted with respect to that position.

(C) In any case in which the director conducts such a wage survey during the period covered by the report, information describing the survey and any actions taken or not taken based on the survey, and the reasons for taking (or not taking) such actions.

(D) In any case in which the director, after finding that there is, or is likely to be, in accordance with criteria established by the Secretary, a significant pay-related staffing problem at that facility for any covered position, determines not to conduct a wage survey with respect to that position, a statement of the reasons why the director did not conduct such a survey.

(5) Not later than September 30 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on staffing for covered positions at Department health care facilities. Each such report shall include the following:

(A) A summary and analysis of the information contained in the most recent reports submitted by facility directors under paragraph (4).

(B) The information for each such facility specified in paragraph (4).

(f) Not later than March 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subsection (d) effective during the 12 months preceding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

(g) For the purposes of this section, the term ''health-care facility'' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

(Added Pub. L. 101–366, title I, § 102(b), Aug. 15, 1990, 104 Stat. 431, § 4141; renumbered § 7451 and amended Pub. L. 102–40, title III, § 301(b), (c), title IV, § 401(c)(1)(A), (2), May 7, 1991, 105 Stat. 208, 238; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 102–585, title III, §§ 301(b)–303, 304(b), 307, Nov. 4, 1992, 106 Stat. 4951–4953; Pub. L. 103–446, title XII, § 1201(c)(7), (e)(23), Nov. 2, 1994, 108 Stat. 4684, 4686; Pub. L. 104–110, title I, § 101(i), Feb. 13, 1996, 110 Stat. 768; Pub. L. 106–419, title II, § 201(a), Nov. 1, 2000, 114 Stat. 1838; Pub. L. 107–135, title I, § 133, Jan. 23, 2002, 115 Stat. 2454.)

REFERENCES IN TEXT

Subsection (g), referred to in subsec. (c)(1), was repealed and subsec. (h) was redesignated (g) by Pub. L. 106–419, title II, § 201(a)(4), Nov. 1, 2000, 114 Stat. 1840.

The General Schedule, referred to in subsec. (d)(1)(A), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

2002—Subsec. (d)(3)(A). Pub. L. 107–135, § 133(1)(A), struck out ''beginning rates of'' before ''compensation

for corresponding health-care professionals'' in two places.

Subsec. (d)(3)(B). Pub. L. 107–135, § 133(1)(B), struck out ''beginning rates of'' before ''compensation for corresponding health-care professionals''.

Subsec. (d)(3)(C)(i). Pub. L. 107–135, § 133(1)(C), struck out ''beginning rates of'' before ''compensation'' in introductory provisions and in subcl. (I).

Subsec. (d)(4). Pub. L. 107–135, § 133(2), struck out ''or at any other time that an adjustment in rates of pay is scheduled to take place under this subsection'' after ''paragraph (3)(B)'' and ''Whenever a director makes such a determination, the director shall within 10 days notify the Under Secretary for Health of the decision and the reasons for the decision.'' at end.

Subsec. (e)(4). Pub. L. 107–135, § 133(3), struck out ''grade in a'' before ''covered position'' in subpar. (A), struck out ''grade of a'' before ''covered position'' and substituted ''that position'' for ''that grade'' in subpar. (B), and struck out ''grade of a'' before ''covered position'' in subpar. (D).

2000—Subsec. (d)(1). Pub. L. 106–419, § 201(a)(1)(A)(i), substituted ''Subject to subsection (e), the rates'' for ''The rates'' in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 106–419, § 201(a)(1)(A)(ii), substituted ''section 5303'' for ''section 5305'' and inserted ''and to be by the same percentage'' after ''to have the same effective date''.

Subsec. (d)(2). Pub. L. 106–419, § 201(a)(1)(B), substituted ''Except as provided in paragraph (1)(A), such'' for ''Such'' in second sentence.

Subsec. (d)(3)(B). Pub. L. 106–419, § 201(a)(1)(C), inserted after first sentence ''To the extent practicable, the director shall use third-party industry wage surveys to meet the requirements of the preceding sentence.'', inserted before penultimate sentence ''To the extent practicable, all surveys conducted pursuant to this subparagraph or subparagraph (A) shall include the collection of salary midpoints, actual salaries, lowest and highest salaries, average salaries, bonuses, incentive pays, differential pays, actual beginning rates of pay, and such other information needed to meet the purpose of this section.'', and in penultimate sentence inserted ''or published'' after ''survey is completed''.

Subsec. (d)(3)(C)(iii). Pub. L. 106–419, § 201(a)(1)(D), struck out cl. (iii) which read as follows: ''The authority of the director to use such additional data under this subparagraph with respect to certified registered nurse anesthetists expires on January 1, 1998.''

Subsec. (e). Pub. L. 106–419, § 201(a)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces the rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.''

Subsec. (f). Pub. L. 106–419, § 201(a)(3), substituted ''March 1 of each year'' for ''February 1 of 1991, 1992, and 1993'' and ''subsection (d)'' for ''subsection (d)(1)(A)''.

Subsecs. (g), (h). Pub. L. 106–419, § 201(a)(4), redesignated subsec. (h) as (g) and struck out former subsec. (g) which directed that not later than Dec. 1 of 1991, 1992, and 1993, the Secretary was to submit to Congress a report regarding the exercise of authorities provided in this section for the preceding fiscal year and listed items to be included in report.

1996—Subsec. (d)(3)(C)(iii). Pub. L. 104–110 substituted ''January 1, 1998'' for ''April 1, 1995''.

1994—Subsec. (d)(3)(C)(i)(I). Pub. L. 103–446, § 1201(e)(23), substituted ''labor-market area'' for ''labor market area''.

Subsec. (g)(1). Pub. L. 103–446, § 1201(c)(7), substituted ''Under Secretary for Health's actions'' for ''Chief Medical Director's actions''.

1992—Subsec. (a)(2)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

Subsec. (a)(3). Pub. L. 102–585, § 302, designated existing provisions as subpar. (A), substituted ''Except as provided in subparagraph (B), the rates'' for ''The rates'', and added subpar. (B).

Subsec. (a)(4). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

Subsec. (b). Pub. L. 102–585, § 301(b), substituted ''five'' for ''four''.

Subsec. (d)(1)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

Subsec. (d)(3)(C). Pub. L. 102–585, § 303(2), added subpar. (C). Former subpar. (C) redesignated (D).

Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

Subsec. (d)(3)(D). Pub. L. 102–585, § 303(1), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

Subsec. (d)(3)(E). Pub. L. 102–585, § 303(1), redesignated subpar. (D) as (E).

Subsec. (d)(4). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in two places.

Subsec. (g)(9). Pub. L. 102–585, § 304(b), added par. (9).

Subsec. (g)(10). Pub. L. 102–585, § 307, added par. (10).

1991—Pub. L. 102–40, § 401(c)(1)(A), renumbered section 4141 of this title as this section.

Subsec. (a)(2)(B). Pub. L. 102–40, § 401(c)(2)(A)(i), substituted ''paragraphs (1) and (3) of section 7401'' for ''clauses (1) and (3) of section 4104''.

Subsec. (a)(3). Pub. L. 102–40, §§ 301(c), 401(c)(2)(A)(ii), substituted ''7404'' for ''4107'' and inserted before period at end ''or chapter 53 of title 5''.

Subsec. (a)(4). Pub. L. 102–40, § 401(c)(2)(A)(iii), substituted ''7452'' for ''4142''.

Subsec. (b). Pub. L. 102–40, § 401(c)(2)(B), substituted ''7401(1)'' for ''4104(1)'' and ''7404(b)'' for ''4107(b)''.

Subsec. (d)(1)(B). Pub. L. 102–40, § 301(b)(1), inserted ''or the Chief Medical Director, with respect to covered Regional and Central Office employees in that grade,'' before ''determines''.

Subsec. (d)(3)(C). Pub. L. 102–40, § 301(b)(2)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (d)(3)(D). Pub. L. 102–40, § 301(b)(2)(A), redesignated subpar. (C) as (D) and inserted ''or Chief Medical Director'' after ''facility''.

Subsec. (d)(4). Pub. L. 102–40, § 301(b)(3), inserted '', or the Chief Medical Director with respect to Regional and Central Office employees,'' after ''facility''.

Subsec. (g)(8). Pub. L. 102–40, § 401(c)(2)(C), substituted ''7452(b)(2)'' for ''4142(b)(2)''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 301(b) to 303 and 304(b) of Pub. L. 102–585 effective with respect to first pay period beginning on or after end of six-month period beginning on Nov. 4, 1992, see section 308 of Pub. L. 102–585, set out as a note under section 7404 of this title.

EFFECTIVE DATE

Section 104 of Pub. L. 101–366, as amended by Pub. L. 102–40, title III, § 301(e), May 7, 1991, 105 Stat. 208, provided that:

''(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 [amending former section 4107 of

this title and enacting provisions set out as a note under former section 4107 of this title] and the amendments made by section 102 [enacting this section and section 4142 [now 7452] of this title and amending former sections 4104 and 4107 of this title] shall take effect on the date of enactment [Aug. 15, 1990].

''(2) The amendment made by section 103 [amending former section 4107 of this title] shall take effect on the first day of the first pay period beginning after April 1, 1991.

''(b) NEW PAY RATES.—The rates of basic pay established pursuant to section 4141 [now 7451] of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.''

SAVINGS PROVISION

Section 301(a) of Pub. L. 102–40 provided that: ''Physician assistants and expanded-function dental auxiliaries shall continue to be paid after August 14, 1990, according to the Nurse Schedule in section 4107(b) of title 38 [former section 4107(b) of this title], United States Code, as in effect on August 14, 1990, until the effective date of a determination by the Secretary to convert those occupations to 'covered positions' and pay them pursuant to section 7451 of such title, as redesignated by section 401(c).''

PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES

Pub. L. 108–422, title V, §501, Nov. 30, 2004, 118 Stat. 2395, provided that:

''(a) PILOT PROGRAM.—(1) Not later than 90 days after the date of the enactment of this Act [Nov. 30, 2004], the Secretary of Veterans Affairs shall designate a health care service region, or a section within such a region, in which health care facilities of the Department of Veterans Affairs are adversely affected by a shortage of qualified nurses.

''(2) The Secretary shall conduct a pilot program in the region or section designated under paragraph (1) to determine the effectiveness of the use of innovative human capital tools and techniques in the recruitment of qualified nurses for positions at Department health care facilities in such region or section and for the retention of nurses at such facilities. In carrying out the pilot program, the Secretary shall enter into a contract with a private sector entity for services under the pilot program for recruitment of qualified nurses.

''(b) PRIVATE SECTOR RECRUITMENT PRACTICES.—For purposes of the pilot program under this section, the Secretary shall identify and use recruitment practices that have proven effective for placing qualified individuals in positions that are difficult to fill due to shortages of qualified individuals or other factors. Recruitment practices to be reviewed by the Secretary for use in the pilot program shall include—

''(1) employer branding and interactive advertising strategies;

''(2) Internet technologies and automated staffing systems; and

''(3) the use of recruitment, advertising, and communication agencies.

''(c) STREAMLINED HIRING PROCESS.—In carrying out the pilot program under this section, the Secretary shall, at health care facilities of the Department in the region or section in which the pilot program is conducted, revise procedures and systems for selecting and hiring qualified nurses to reduce the length of the hiring process. If the Secretary identifies measures to streamline and automate the hiring process that can only be implemented if authorized by law, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives recommendations for such changes in law as may be necessary to enable such measures to be implemented.

''(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the extent to which the pilot program achieved the goal of improving the recruitment and retention of nurses in Department of Veterans Affairs health care facilities.''

REPORT ON REQUESTS FOR WAIVERS OF PAY REDUCTIONS FOR REEMPLOYED ANNUITANTS TO FILL NURSE POSITIONS

Pub. L. 107–135, title I, §103, Jan. 23, 2002, 115 Stat. 2450, provided that:

''(a) REPORT.—Not later than March 28 of each of 2002 and 2003, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives and to the National Commission on VA Nursing established under subtitle D [set out below] a report describing each request of the Secretary, during the fiscal year preceding such report, to the Director of the Office of Personnel Management for the following:

''(1) A waiver under subsection (i)(1)(A) of section 8344 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department of Veterans Affairs for appointments to nurse positions in the Veterans Health Administration.

''(2) A waiver under subsection (f)(1)(A) of section 8468 of title 5, United States Code, of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

''(3) A grant of authority under subsection (i)(1)(B) of section 8344 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

''(4) A grant of authority under subsection (f)(1)(B) of section 8468 of title 5, United States Code, for the waiver of the provisions of such section in order to meet requirements of the Department for appointments to such positions.

''(b) INFORMATION ON RESPONSES TO REQUESTS.—The report under subsection (a) shall specify for each request covered by the report—

''(1) the response of the Director to such request; and

''(2) if such request was granted, whether or not the waiver or authority, as the case may be, assisted the Secretary in meeting requirements of the Department for appointments to nurse positions in the Veterans Health Administration.''

NATIONAL COMMISSION ON VA NURSING

Pub. L. 107–135, title I, subtitle D, Jan. 23, 2002, 115 Stat. 2454, provided that:

''SEC. 141. ESTABLISHMENT OF COMMISSION.

''(a) ESTABLISHMENT.—There is hereby established in the Department of Veterans Affairs a commission to be known as the 'National Commission on VA Nursing' (hereinafter in this subtitle referred to as the 'Commission').

''(b) COMPOSITION.—The Commission shall be composed of 12 members appointed by the Secretary of Veterans Affairs as follows:

''(1) At least two shall be recognized representatives of employees (including nurses) of the Department of Veterans Affairs.

''(2) At least one shall be a representative of professional associations of nurses of the Department or similar organizations affiliated with the Department's health care practitioners.

''(3) At least one shall be a nurse from a nursing school affiliated with the Department of Veterans Affairs.

''(4) At least two shall be representatives of veterans.

''(5) At least one shall be an economist.

''(6) The remainder shall be appointed in such manner as the Secretary considers appropriate.

''(c) CHAIR OF COMMISSION.—The Secretary of Veterans Affairs shall designate one of the members of the Commission to chair the Commission.

''(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

''(e) INITIAL ORGANIZATION REQUIREMENTS.—All appointments to the Commission shall be made not later than 60 days after the date of the enactment of this Act [Jan. 23, 2002]. The Commission shall convene its first meeting not later than 60 days after the date as of which all members of the Commission have been appointed.

''SEC. 142. DUTIES OF COMMISSION.

''(a) ASSESSMENT.—The Commission shall—

''(1) consider legislative and organizational policy changes to enhance the recruitment and retention of nurses and other nursing personnel by the Department of Veterans Affairs; and

''(2) assess the future of the nursing profession within the Department.

''(b) RECOMMENDATIONS.—The Commission shall recommend legislative and organizational policy changes to enhance the recruitment and retention of nurses and other nursing personnel in the Department.

''SEC. 143. REPORTS.

''(a) COMMISSION REPORT.—The Commission shall, not later than two years after the date of its first meeting, submit to Congress and the Secretary of Veterans Affairs a report on the Commission's findings and recommendations.

''(b) SECRETARY OF VETERANS AFFAIRS REPORT.—Not later than 60 days after the date of the Commission's report under subsection (a), the Secretary shall submit to Congress a report—

''(1) providing the Secretary's views on the Commission's findings and recommendations; and

''(2) explaining what actions, if any, the Secretary intends to take to implement the recommendations of the Commission and the Secretary's reasons for doing so.

''SEC. 144. POWERS.

''(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this subtitle, hold hearings and take testimony to the extent that the Commission or any member considers advisable.

''(b) INFORMATION.—The Commission may secure directly from any Federal department or agency information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this subtitle.

''SEC. 145. PERSONNEL MATTERS.

''(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

''(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

''(c) STAFF.—(1) The Secretary may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties.

''(2) The Secretary may fix the pay of the staff director and other personnel appointed under paragraph (1) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS–15 of the General Schedule.

''(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Secretary, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

''SEC. 146. TERMINATION OF COMMISSION.

''The Commission shall terminate 90 days after the date of the submission of its report under section 143(a).''

REPORT ON NURSE LOCALITY PAY

Pub. L. 105–368, title IX, § 905, Nov. 11, 1998, 112 Stat. 3361, provided that:

''(a) REPORT REQUIRED.—(1) Not later than February 1, 1999, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report assessing the system of locality-based pay for nurses established under the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101–366) and now set forth in section 7451 of title 38, United States Code.

''(2) The Secretary shall submit with the report under paragraph (1) a copy of the report on the locality pay system prepared by the contractor pursuant to a contract with Systems Flow, Inc., that was entered into on May 22, 1998.

''(b) MATTERS TO BE INCLUDED.—The report of the Secretary under subsection (a)(1) shall include the following:

''(1) An assessment of the effects of the locality-based pay system, including information, shown by facility and grade level, regarding the frequency and percentage increases, if any, in the rate of basic pay under that system of nurses employed in the Veterans Health Administration.

''(2) An assessment of the manner in which that system is being applied.

''(3) Plans and recommendations of the Secretary for administrative and legislative improvements or revisions to the locality pay system.

''(4) An explanation of the reasons for any decision not to adopt any recommendation in the report referred to in subsection (a)(2).

''(c) UPDATED REPORT.—Not later than February 1, 2000, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report updating the report submitted under subsection (a)(1).''

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

NURSING PERSONNEL QUALIFICATION STANDARDS

Section 305 of Pub. L. 102–585 provided that:

''(a) REVISION.—The Secretary of Veterans Affairs shall conduct a review of the qualification standards used for nursing personnel at Department health-care facilities and the relationship between those standards and the compression of nursing personnel in the existing intermediate and senior grades. Based upon that review, the Secretary shall revise those qualification standards—

''(1) to reflect the five grade levels for nursing personnel under the Nurse Schedule [see 38 U.S.C. 7404(b)(1)], as amended by section 301; and

''(2) to reduce the compression of nursing personnel in the existing intermediate and senior grades.

''(b) DEADLINE FOR PRESCRIBING STANDARDS.—The Secretary shall prescribe revised qualification standards for nursing personnel pursuant to subsection (a) not later than six months after the date of the enactment of this Act [Nov. 4, 1992].

''(c) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's findings and actions under this section. The report shall be submitted not later than six months after the date on which revised qualification standards for nursing personnel are prescribed pursuant to subsection (b).''

REPORT ON PAY FOR CHIEF NURSE POSITION

Section 306 of Pub. L. 102–585 provided that:

''(a) REVIEW.—The Secretary of Veterans Affairs shall conduct a review of—

''(1) the process for determining the rate of basic pay applicable to the Chief Nurse position at Department of Veterans Affairs health-care facilities; and

''(2) the relationship between the rate of such basic pay and the rate of basic pay applicable to nurses in positions subordinate to the Chief Nurse at the respective Department facilities.

The review shall include an assessment of the adequacy of that process in determining an equitable pay rate for the Chief Nurse position, including an assessment of the accuracy of data collected in the survey process and the difficulties in obtaining accurate data.

''(b) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). To the extent that the review discloses difficulties in obtaining accurate data in the survey process with respect to the Chief Nurse position at Department facilities, the Secretary shall include in the report recommendations for corrective action. The Secretary shall also include in the report (1) a listing of the salary differential (expressed as a percentage) between the Chief Nurse at a facility and the highest paid nurse (excluding certified registered nurse anesthetists) serving in a position subordinate to the Chief Nurse, and (2) an analysis of such data. The report shall be submitted not later than 12 months after the date of the enactment of this Act [Nov. 4, 1992].''

§ 7452. Nurses and other health-care personnel: administration of pay

(a)(1) Regulations prescribed under section 7451(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 7451(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

(3) An employee in a covered position who is promoted to the next higher grade shall be paid in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed $2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

(2) The Secretary shall include in the annual report under section 7451(g)[1] of this title a discussion of the use during the period covered by the report of the payment of bonuses under this subsection and other job performance incentives available to the Secretary.

(c)(1) The Secretary shall provide (in regulations prescribed for the administration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 7401(1) of this title as an employee in a covered position for employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain that document on file); and

(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include documentation for the need for such increased rates of basic pay described in clause (A).

(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate

[1] See References in Text note below.

higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

(e) An employee in a covered position employed under section 7401(1) of this title who (without a break in employment) transfers from one Department health-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step, except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g)[1] of this title, provide justification for doing so.

(f) In this section, the term ''covered position'' has the meaning given that term in section 7451 of this title.

(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

(A) Each Department health care facility.

(B) The Central Office.

(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.

(Added Pub. L. 101–366, title I, § 102(b), Aug. 15, 1990, 104 Stat. 435, § 4142; renumbered § 7452 and amended Pub. L. 102–40, title III, § 301(d), title IV, § 401(c)(1)(A), (3), May 7, 1991, 105 Stat. 208, 238; Pub. L. 102–585, title III, § 304(a), Nov. 4, 1992, 106 Stat. 4952; Pub. L. 108–445, § 5, Dec. 3, 2004, 118 Stat. 2645.)

REFERENCES IN TEXT

Section 7451(g) of this title, referred to in subsecs. (b)(2) and (e), was repealed and subsec. (h) of section 7451 was redesignated (g) by Pub. L. 106–419, title II, § 201(a)(4), Nov. 1, 2000, 114 Stat. 1840.

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–445 added subsec. (g).

1992—Subsec. (e). Pub. L. 102–585 inserted before period at end '', except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g) of this title, provide justification for doing so''.

1991—Pub. L. 102–40, § 401(c)(1)(A), renumbered section 4142 of this title as this section.

Subsec. (a)(1). Pub. L. 102–40, § 401(c)(3)(A)(i), substituted ''7451(a)'' for ''4141(a)''.

Subsec. (a)(2). Pub. L. 102–40, § 401(c)(3)(A)(ii), substituted ''7451(c)(1)'' for ''4141(c)(1)''.

Subsec. (a)(3). Pub. L. 102–40, § 301(d), substituted ''paid'' for ''appointed''.

Subsec. (b)(2). Pub. L. 102–40, § 401(c)(3)(B), substituted ''7451(g)'' for ''4141(g)''.

Subsec. (c)(1). Pub. L. 102–40, § 401(c)(3)(C), substituted ''7401(1)'' for ''4104(1)''.

Subsec. (e). Pub. L. 102–40, § 401(c)(3)(C), substituted ''7401(1)'' for ''4104(1)''.

Subsec. (f). Pub. L. 102–40, § 401(c)(3)(D), substituted ''7451'' for ''4141''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–585 effective with respect to first pay period beginning on or after end of six-month period beginning on Nov. 4, 1992, see section 308 of Pub. L. 102–585, set out as a note under section 7404 of this title.

§ 7453. Nurses: additional pay

(a) In addition to the rate of basic pay provided for nurses, a nurse shall receive additional pay as provided by this section.

(b) A nurse performing service on a tour of duty, any part of which is within the period

commencing at 6 postmeridian and ending at 6 antemeridian, shall receive additional pay for each hour of service on such tour at a rate equal to 10 percent of the nurse's hourly rate of basic pay if at least four hours of such tour fall between 6 postmeridian and 6 antemeridian. When less than four hours of such tour fall between 6 postmeridian and 6 antemeridian, the nurse shall be paid the differential for each hour of service performed between those hours.

(c) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight Friday and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 percent of such nurse's hourly rate of basic pay.

(d) A nurse performing service on a holiday designated by Federal statute or Executive order shall receive for each hour of such service the nurse's hourly rate of basic pay, plus additional pay at a rate equal to such hourly rate of basic pay, for that holiday service, including overtime service. Any service required to be performed by a nurse on such a designated holiday shall be deemed to be a minimum of two hours in duration.

(e)(1) A nurse performing officially ordered or approved hours of service in excess of 40 hours in an administrative workweek, or in excess of eight hours in a day, shall receive overtime pay for each hour of such additional service. The overtime rates shall be one and one-half times such nurse's hourly rate of basic pay.

(2) For the purposes of this subsection, overtime must be of at least 15 minutes duration in a day to be creditable for overtime pay.

(3) Compensatory time off in lieu of pay for service performed under the provisions of this subsection shall not be permitted, except as voluntarily requested in writing by the nurse in question.

(4) Any excess service performed under this subsection on a day when service was not scheduled for such nurse, or for which such nurse is required to return to the nurse's place of employment, shall be deemed to be a minimum of two hours in duration.

(5) For the purposes of this subsection, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

(A) such travel occurs during such nurse's tour of duty; or

(B) such travel—

(i) involves the performance of services while traveling,

(ii) is incident to travel that involves the performance of services while traveling,

(iii) is carried out under arduous conditions as determined by the Secretary, or

(iv) results from an event which could not be scheduled or controlled administratively.

(f) For the purpose of computing the additional pay provided by subsection (b), (c), (d), or (e), a nurse's hourly rate of basic pay shall be derived by dividing such nurse's annual rate of basic pay by 2,080.

(g) When a nurse is entitled to two or more forms of additional pay under subsection (b), (c), (d), or (e) for the same period of service, the amounts of such additional pay shall be computed separately on the basis of such nurse's hourly rate of basic pay, except that no overtime pay as provided in subsection (e) shall be payable for overtime service performed on a holiday designated by Federal statute or Executive order in addition to pay received under subsection (d) for such service.

(h) A nurse who is officially scheduled to be on call outside such nurse's regular hours or on a holiday designated by Federal statute or Executive order shall be paid for each hour of such on-call duty, except for such time as such nurse may be called back to work, at a rate equal to 10 percent of the hourly rate for excess service as provided in subsection (e).

(i) Any additional pay paid pursuant to this section shall not be considered as basic pay for the purposes of the following provisions of title 5 (and any other provision of law relating to benefits based on basic pay):

(1) Subchapter VI of chapter 55.

(2) Section 5595.

(3) Chapters 81, 83, 84, and 87.

(j)(1) Notwithstanding any other provision of law and subject to paragraph (2), the Secretary may increase the rates of additional pay authorized under subsections (b) through (h) if the Secretary determines that it is necessary to do so in order to obtain or retain the services of nurses.

(2) An increase under paragraph (1) in rates of additional pay—

(A) may be made at any specific Department health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Department health-care facility (based upon a reasonably representative sampling of such non-Federal facilities); and

(B) may be made on a nationwide, local, or other geographic basis if the Secretary finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

(Added Pub. L. 102–40, title IV, § 401(b)(4), May 7, 1991, 105 Stat. 232; amended Pub. L. 103–446, title XII, § 1201(e)(24), (g)(6), Nov. 2, 1994, 108 Stat. 4686, 4687.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4107(e) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1994—Subsecs. (f), (g). Pub. L. 103–446, § 1201(e)(24), substituted ''subsection (b), (c), (d), or (e)'' for ''subsections (b), (c), (d), or (e)''.

Subsec. (i)(3). Pub. L. 103–446, § 1201(g)(6), struck out ''of title 5'' before period at end.

§ 7454. Physician assistants and other health care professionals: additional pay

(a) Physician assistants and expanded-function dental auxiliaries shall be entitled to addi-

tional pay on the same basis as provided for nurses in section 7453 of this title.

(b)(1) When the Secretary determines it to be necessary in order to obtain or retain the services of individuals in positions listed in section 7401(3) of this title, the Secretary may, on a nationwide, local, or other geographic basis, pay persons employed in such positions additional pay on the same basis as provided for nurses in section 7453 of this title.

(2) Health care professionals employed in positions referred to in paragraph (1) shall be entitled to additional pay on the same basis as provided for nurses in section 7453(c) of this title.

(3) Employees appointed under section 7408 of this title shall be entitled to additional pay on the same basis as provided for nurses in section 7453(c) of this title.

(c) The Secretary shall prescribe by regulation standards for compensation and payment under this section.

(Added Pub. L. 102–40, title IV, § 401(b)(4), May 7, 1991, 105 Stat. 234; amended Pub. L. 107–135, title I, § 121(a), Jan. 23, 2002, 115 Stat. 2450; Pub. L. 108–170, title III, §§ 301(d), 303(a), Dec. 6, 2003, 117 Stat. 2057, 2058.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4107(f) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2003—Subsec. (b)(1). Pub. L. 108–170, § 301(d), substituted ''individuals in positions listed in section 7401(3) of this title,'' for ''certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, or occupational therapists,''.

Subsec. (b)(3). Pub. L. 108–170, § 303(a), added par. (3).

2002—Subsec. (b). Pub. L. 107–135 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–170, title III, § 303(b), Dec. 6, 2003, 117 Stat. 2058, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect with respect to the first pay period beginning on or after January 1, 2004.''

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–135, title I, § 121(b), Jan. 23, 2002, 115 Stat. 2450, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to pay periods beginning on or after the date of the enactment of this Act [Jan. 23, 2002].''

§ 7455. Increases in rates of basic pay

(a)(1) Subject to subsections (b), (c), and (d), when the Secretary determines it to be necessary in order to obtain or retain the services of persons described in paragraph (2), the Secretary may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay—

(A) may be made on a nationwide basis, local basis, or other geographic basis; and

(B) may be made—

(i) for one or more of the grades listed in the schedules in subsection (b)(1) of section 7404 of this title;

(ii) for one or more of the health personnel fields within such grades; or

(iii) for one or more of the grades of the General Schedule under section 5332 of title 5.

(2) Paragraph (1) applies to the following:

(A) Individuals employed in positions listed in paragraphs (1) and (3) of section 7401 of this title.

(B) Health-care personnel who—

(i) are employed in the Administration (other than administrative, clerical, and physical plant maintenance and protective services employees);

(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

(iii) are determined by the Secretary to be providing either direct patient-care services or services incident to direct patient-care services; and

(iv) would not otherwise be available to provide medical care and treatment for veterans.

(C) Employees who are Department police officers providing services under section 902 of this title.

(b) Increases in rates of basic pay may be made under subsection (a) only in order—

(1) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market;

(2) to achieve adequate staffing at particular facilities; or

(3) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

(c)(1) The amount of any increase under subsection (a) in the maximum rate for any grade may not (except in the case of nurse anesthetists, pharmacists, and licensed physical therapists) exceed by two times the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Under Secretary for Health.

(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.

(d)(1) In the exercise of the authority provided in subsection (a) with respect to personnel described in subparagraph (B) or (C) of paragraph (2) of that subsection to increase the rates of basic pay for any category of personnel not appointed under subchapter I, the Secretary shall, not less than 45 days before the effective date of a proposed increase, notify the President of the Secretary's intention to provide such an increase.

(2) Such a proposed increase shall not take effect if, before the effective date of the proposed increase, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval.

(3) If, before that effective date, the President approves such increase, the Secretary may advance the effective date to any date not earlier than the date of the President's approval.

(Added Pub. L. 102–40, title IV, § 401(b)(4), May 7, 1991, 105 Stat. 234; amended Pub. L. 102–83, § 2(c)(7), Aug. 6, 1991, 105 Stat. 402; Pub. L. 102–405, title II, § 201, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1983, 1984; Pub. L. 106–419, title II, § 203, Nov. 1, 2000, 114 Stat. 1841.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4107(g) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–419 inserted ", pharmacists," after "anesthetists".

1992—Subsec. (c). Pub. L. 102–405, § 302(c)(1), substituted "Under Secretary for Health" for "Chief Medical Director" in par. (1).

Pub. L. 102–405, § 201, designated existing provisions as par. (1), inserted "by two times" after first reference to "exceed", and added par. (2).

1991—Subsec. (a)(2)(C). Pub. L. 102–83 substituted "902" for "218".

EX. ORD. NO. 12797. REVIEW OF INCREASES IN RATES OF BASIC PAY FOR CERTAIN EMPLOYEES OF DEPARTMENT OF VETERANS AFFAIRS AND OTHER AGENCIES

Ex. Ord. No. 12797, Apr. 3, 1992, 57 F.R. 11671, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 7455(d)(2)–(3) of title 38, United States Code, in order to establish procedures for review of proposed increases in the rates of basic pay of certain employees of the Department of Veterans Affairs and of other agencies, it is hereby ordered as follows:

SECTION 1. The Director of the Office of Personnel Management is designated to exercise the authority vested in the President by section 7455(d)(2)–(3) of title 38, United States Code, to review and approve or disapprove the increases in rates of basic pay proposed by the Secretary of Veterans Affairs and to provide the appropriate committees of the Congress with a written statement of the reasons for any such disapproval.

SEC. 2. In exercising this authority, the Director of the Office of Personnel Management shall assure that any increases in basic pay proposed by the Secretary of Veterans Affairs are in the best interest of the Federal Government, do not exceed the amounts authorized by section 7455, and are made only to:

(1) Provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

(2) Achieve adequate staffing at particular facilities; or

(3) Recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

SEC. 3. The Secretary of Veterans Affairs shall provide to the Director of the Office of Personnel Management such information as the Director may request in order to carry out the responsibilities delegated by this order.

SEC. 4. The Director of the Office of Personnel Management shall provide the Secretary of Veterans Affairs with a copy of any written statement provided to the appropriate committees of the Congress that sets forth the reasons for disapproval of any proposed increase in rates of basic pay under this order.

SEC. 5. In the case of any other law authorizing another agency to use the authority provided by section 7455 of title 38, United States Code, the Director of the Office of Personnel Management shall exercise the same authority in the same manner as provided for with respect to section 7455 under sections 1 through 4 of this order, and the head of such other agency shall provide information requested by the Director as provided for in section 3 of this order.

SEC. 6. Executive Order No. 12438 of August 23, 1983, is revoked.

SEC. 7. This order shall be effective upon publication in the Federal Register.

GEORGE BUSH.

§ 7456. Nurses: special rules for weekend duty

(a) Subject to subsection (b), if the Secretary determines it to be necessary in order to obtain or retain the services of nurses at any Department health-care facility, the Secretary may provide, in the case of nurses appointed under this chapter and employed at such facility, that such nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

(b)(1) Basic and additional pay for a nurse who is considered under subsection (a) to have worked a full 40-hour basic workweek shall be subject to paragraphs (2) and (3).

(2) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 12-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by 1,248.

(3)(A) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two 12-hour tours of duty is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

(B) Except as provided in subparagraph (C), a nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

(C) If the Secretary determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two 12-hour tours of duty may be paid overtime pay under section 7453(e) of this title, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of 40 hours during an administrative workweek.

(c) A nurse described in subsection (b)(1) who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

(d) The Secretary shall prescribe regulations for the implementation of this section.

(Added Pub. L. 102–40, title IV, § 401(b)(4), May 7, 1991, 105 Stat. 235.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4107(h) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

§ 7456A. Nurses: alternate work schedules

(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a work week shall be considered for all purposes to have worked a full 40-hour basic work week.

(B) A nurse who works under the authority in subparagraph (A) shall be considered a 0.90 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic work week shall be subject to subparagraphs (B) and (C).

(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the work week shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

(C) The Secretary shall pay overtime pay to a nurse covered by this paragraph who—

(i) performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within an administrative work week;

(ii) for officially ordered or approved service, performs a period of service in excess of 8 hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour of duty falls;

(iii) performs a period of service in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty work week; or

(iv) performs a period of service in excess of 40 hours during an administrative work week.

(D) The Secretary may provide a nurse to whom this subsection applies with additional pay under section 7453 of this title for any period included in a regularly scheduled 12-hour tour of duty.

(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

(c) HOLIDAY PAY.—A nurse working a work schedule under subsection (b) that includes a holiday designated by law or Executive order shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on such holiday under such section.

(d) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full time for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year.

(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

(3) Work under this subsection shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

(4) A nurse who works under the authority in paragraph (1) shall be considered a full-time employee for purposes of chapter 89 of title 5.

(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each employee with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, that the alternate work schedule will have on the employee's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the employee consents to the alternate work schedule.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

(Added Pub. L. 108–445, § 4(a)(1), Dec. 3, 2004, 118 Stat. 2643.)

§ 7457. On-call pay

(a) The Secretary may pay an employee to whom this section applies pay at the rate provided in section 7453(h) of this title except for such time as the employee may be called back to work.

(b) This section applies to an employee who meets each of the following criteria:

(1) The employee is employed in a position listed in paragraph (3) of section 7401 of this title or meets the criteria specified in clauses (i), (ii), and (iii) of section 7455(a)(2)(B) of this title.

(2) The employee is employed in a work unit for which on-call premium pay is authorized.

(3) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

(c) An employee who is eligible for on-call pay under subsection (a) and who was receiving standby premium pay pursuant to section 5545 of title 5 on May 20, 1988, shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on-call duty at the rate equal to the greater of—

(1) the rate of pay which such employee would receive if being paid the rate of standby

pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or

(2) the rate of pay which such employee is entitled to receive including on-call premium pay described in subsection (a).

(Added Pub. L. 102–40, title IV, § 401(b)(4), May 7, 1991, 105 Stat. 236.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4107(j) of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

§ 7458. Recruitment and retention bonus pay

(a)(1) In order to recruit and retain registered nurses, the Secretary may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Department at, a Department health-care facility that is designated by the Secretary as a health-care facility with a significant shortage in registered nurses in any clinical service.

(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Department as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Secretary as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

(b)(1) The Secretary shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

(A) $2,000 per year, in the case of an agreement for two years,

(B) $3,000 per year, in the case of an agreement for three years, and

(C) $4,000 per year, in the case of an agreement for four years.

(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated[1] accordingly.

(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(2)(A) The Secretary may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

(B) If the Secretary makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

(e) At least once each year the Secretary, upon the recommendation of the Under Secretary for Health, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

(f) The Secretary may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under subchapter III) if the Secretary determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Secretary's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement.

(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Secretary for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Secretary determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

[1] So in original.

(h) The Secretary shall prescribe regulations to carry out this section.

(Added Pub. L. 100–322, title II, § 212(a)[(1)], May 20, 1988, 102 Stat. 514, § 4120; renumbered § 7458 and amended Pub. L. 102–40, title IV, § 401(c)(4), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(h)(4), Nov. 2, 1994, 108 Stat. 4688.)

AMENDMENTS

1994—Pub. L. 103–446 substituted ''Recruitment and retention bonus pay'' for ''Recruitment and retention bonus pay for nurses and certain other health-care personnel'' as section catchline.

1992—Subsec. (e). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40 renumbered section 4120 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsecs. (b)(1), (c)(2), (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places and ''Secretary's'' for ''Administrator's''.

Pub. L. 102–40 substituted ''subchapter III'' for ''section 4118 of this title''.

Subsecs. (g)(1), (2), (h). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

§ 7461. Adverse actions: section 7401(1) employees

(a) Whenever the Under Secretary for Health (or an official designated by the Under Secretary for Health) brings charges based on conduct or performance against a section 7401(1) employee and as a result of those charges an adverse personnel action is taken against the employee, the employee shall have the right to appeal the action.

(b)(1) If the case involves or includes a question of professional conduct or competence in which a major adverse action was taken, such an appeal shall be made to a Disciplinary Appeals Board under section 7462 of this title.

(2) In any other case, such an appeal shall be made—

(A) through Department grievance procedures under section 7463 of this title, in any case that involves or includes a question of professional conduct or competence in which a major adverse action was not taken or in any case of an employee who is not covered by a collective bargaining agreement under chapter 71 of title 5; or

(B) through grievance procedures provided through collective bargaining under chapter 71 of title 5 or through Department grievance procedures under section 7463 of this title, as the employee elects, in the case of an employee covered by a collective bargaining agreement under chapter 71 of title 5 that does not involve or include a question of professional conduct or competence.

(c) For purposes of this subchapter—

(1) Section 7401(1) employees are employees of the Department employed on a full-time basis under a permanent appointment in a position listed in section 7401(1) of this title (other than interns and residents appointed pursuant to section 7406 of this title).

(2) A major adverse action is an adverse action which includes any of the following:

(A) Suspension.

(B) Transfer.

(C) Reduction in grade.

(D) Reduction in basic pay.

(E) Discharge.

(3) A question of professional conduct or competence is a question involving any of the following:

(A) Direct patient care.

(B) Clinical competence.

(d) An issue of whether a matter or question concerns, or arises out of, professional conduct or competence is not itself subject to any grievance procedure provided by law, regulation, or collective bargaining and may not be reviewed by any other agency.

(e) Whenever the Secretary proposes to prescribe regulations under this subchapter, the Secretary shall publish the proposed regulations in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

(Added Pub. L. 102–40, title II, § 203(a), May 7, 1991, 105 Stat. 202; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in section 4110 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in two places.

REGULATIONS

Section 204 of Pub. L. 102–40 provided that: ''The Secretary of Veterans Affairs shall prescribe regulations under subchapter V of chapter 74 of title 38, United States Code (as added by section 203), not later than 180 days after the date of the enactment of this Act [May 7, 1991]. Such regulations shall be published in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.''

§ 7462. Major adverse actions involving professional conduct or competence

(a)(1) Disciplinary Appeals Boards appointed under section 7464 of this title shall have exclusive jurisdiction to review any case—

(A) which arises out of (or which includes) a question of professional conduct or competence of a section 7401(1) employee; and

(B) in which a major adverse action was taken.

(2) The board shall include in its record of decision in any mixed case a statement of the board's exclusive jurisdiction under this subsection and the basis for such exclusive jurisdiction.

(3) For purposes of paragraph (2), a mixed case is a case that includes both a major adverse ac-

tion arising out of a question of professional conduct or competence and an adverse action which is not a major adverse action or which does not arise out of a question of professional conduct or competence.

(b)(1) In any case in which charges are brought against a section 7401(1) employee which arises out of, or includes, a question of professional conduct or competence which could result in a major adverse action, the employee is entitled to the following:

(A) At least 30 days advance written notice from the Under Secretary for Health or other charging official specifically stating the basis for each charge, the adverse actions that could be taken if the charges are sustained, and a statement of any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated with respect to each charge, except that the requirement for notification in advance may be waived if there is reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned.

(B) A reasonable time, but not less than seven days, to present an answer orally and in writing to the Under Secretary for Health or other deciding official, who shall be an official higher in rank than the charging official, and to submit affidavits and other documentary evidence in support of the answer.

(2) In any case described in paragraph (1), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

(3)(A) If a proposed adverse action covered by this section is not withdrawn, the deciding official shall render a decision in writing within 21 days of receipt by the deciding official of the employee's answer. The decision shall include a statement of the specific reasons for the decision with respect to each charge. If a major adverse action is imposed, the decision shall state whether any of the charges sustained arose out of a question of professional conduct or competence. If any of the charges are sustained, the notice of the decision to the employee shall include notice of the employee's rights of appeal.

(B) Notwithstanding the 21-day period specified in subparagraph (A), a proposed adverse action may be held in abeyance if the employee requests, and the deciding official agrees, that the employee shall seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973. Any such abeyance of a proposed action may not extend for more than one year.

(4)(A) The Secretary may require that any answer and submission under paragraph (1)(B) be submitted so as to be received within 30 days of the date of the written notice of the charges, except that the Secretary shall allow the granting of extensions for good cause shown.

(B) The Secretary shall require that any appeal to a Disciplinary Appeals Board from a decision to impose a major adverse action shall be received within 30 days after the date of service of the written decision on the employee.

(c)(1) When a Disciplinary Appeals Board convenes to consider an appeal in a case under this section, the board, before proceeding to consider the merits of the appeal, shall determine whether the case is properly before it.

(2) Upon hearing such an appeal, the board shall, with respect to each charge appealed to the board, sustain the charge, dismiss the charge, or sustain the charge in part and dismiss the charge in part. If the deciding official is sustained (in whole or in part) with respect to any such charge, the board shall—

(A) approve the action as imposed;

(B) approve the action with modification, reduction, or exception; or

(C) reverse the action.

(3) A board shall afford an employee appealing an adverse action under this section an opportunity for an oral hearing. If such a hearing is held, the board shall provide the employee with a transcript of the hearing.

(4) The board shall render a decision in any case within 45 days of completion of the hearing, if there is a hearing, and in any event no later than 120 days after the appeal commenced.

(d)(1) After resolving any question as to whether a matter involves professional conduct or competence, the Secretary shall cause to be executed the decision of the Disciplinary Appeals Board in a timely manner and in any event in not more than 90 days after the decision of the Board is received by the Secretary. Pursuant to the board's decision, the Secretary may order reinstatement, award back pay, and provide such other remedies as the board found appropriate relating directly to the proposed action, including expungement of records relating to the action.

(2) If the Secretary finds a decision of the board to be clearly contrary to the evidence or unlawful, the Secretary may—

(A) reverse the decision of the board, or

(B) vacate the decision of the board and remand the matter to the Board for further consideration.

(3) If the Secretary finds the decision of the board (while not clearly contrary to the evidence or unlawful) to be not justified by the nature of the charges, the Secretary may mitigate the adverse action imposed.

(4) The Secretary's execution of a board's decision shall be the final administrative action in the case.

(e) The Secretary may designate an employee of the Department to represent management in any case before a Disciplinary Appeals Board.

(f)(1) A section 7401(1) employee adversely affected by a final order or decision of a Disciplinary Appeals Board (as reviewed by the Secretary) may obtain judicial review of the order or decision.

(2) In any case in which judicial review is sought under this subsection, the court shall review the record and hold unlawful and set aside any agency action, finding, or conclusion found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) obtained without procedures required by law, rule, or regulation having been followed; or

(C) unsupported by substantial evidence.

(Added Pub. L. 102–40, title II, § 203(a), May 7, 1991, 105 Stat. 203; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (b)(3)(B), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in section 4110 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in subpars. (A) and (B).

§ 7463. Other adverse actions

(a) The Secretary shall prescribe by regulation procedures for the consideration of grievances of section 7401(1) employees arising from adverse personnel actions in which each action taken either—

(1) is not a major adverse action; or

(2) does not arise out of a question of professional conduct or competence.

Disciplinary Appeals Boards shall not have jurisdiction to review such matters, other than as part of a mixed case (as defined in section 7462(a)(3) of this title).

(b) In the case of an employee who is a member of a collective bargaining unit under chapter 71 of title 5, the employee may seek review of an adverse action described in subsection (a) either under the grievance procedures provided through regulations prescribed under subsection (a) or through grievance procedures determined through collective bargaining, but not under both. The employee shall elect which grievance procedure to follow. Any such election may not be revoked.

(c)(1) In any case in which charges are brought against a section 7401(1) employee which could result in a major adverse action and which do not involve professional conduct or competence, the employee is entitled to the same notice and opportunity to answer with respect to those charges as provided in subparagraphs (A) and (B) of section 7462(b)(1) of this title.

(2) In any other case in which charges are brought against a section 7401(1) employee, the employee is entitled to—

(A) an advance written notice stating the specific reason for the proposed action, and

(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

(d) Grievance procedures prescribed under subsection (a) shall include the following:

(1) A right to formal review by an impartial examiner within the Department of Veterans Affairs, who, in the case of an adverse action arising from a question of professional conduct or competence, shall be selected from the panel designated under section 7464 of this title.

(2) A right to a prompt report of the findings and recommendations by the impartial examiner.

(3) A right to a prompt review of the examiner's findings and recommendations by an official of a higher level than the official who decided upon the action. That official may accept, modify, or reject the examiner's recommendations.

(e) In any review of an adverse action under the grievance procedures prescribed under subsection (a), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

(Added Pub. L. 102–40, title II, § 203(a), May 7, 1991, 105 Stat. 205.)

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in section 4110 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

§ 7464. Disciplinary Appeals Boards

(a) The Secretary shall from time to time appoint boards to hear appeals of major adverse actions described in section 7462 of this title. Such boards shall be known as Disciplinary Appeals Boards. Each board shall consist of three employees of the Department, each of whom shall be of the same grade as, or be senior in grade to, the employee who is appealing an adverse action. At least two of the members of each board shall be employed in the same category of position as the employee who is appealing the adverse action. Members of a board shall be appointed from individuals on the panel established under subsection (d).

(b)(1) In appointing a board for any case, the Secretary shall designate one of the members to be chairman and one of the members to be secretary of the board, each of whom shall have authority to administer oaths.

(2) Appointment of boards, and the proceedings of such boards, shall be carried out under regulations prescribed by the Secretary. A verbatim record shall be maintained of board hearings.

(c)(1) Notwithstanding sections 5701 and 7332 of this title, the chairman of a board, upon request of an employee whose case is under consideration by the board (or a representative of that employee) may, in connection with the considerations of the board, review records or information covered by those sections and may authorize the disclosure of such records or information to that employee (or representative) to the extent the board considers appropriate for purposes of the proceedings of the board in that case.

(2) In any such case the board chairman may direct that measures be taken to protect the personal privacy of individuals whose records are involved. Any person who uses or discloses a record or information covered by this subsection for any purpose other than in connection with the proceedings of the board shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

(d)(1) The Secretary shall provide for the periodic designation of employees of the Depart-

ment who are qualified to serve on Disciplinary Appeals Boards. Those employees shall constitute the panel from which board members in a case are appointed. The Secretary shall provide (without charge) a list of the names of employees on the panel to any person requesting such list.

(2) The Secretary shall announce periodically, and not less often than annually, that the roster of employees on the panel is available as described in paragraph (1). Such announcement shall be made at Department medical facilities and through publication in the Federal Register. Notice of a name being on the list must be provided at least 30 days before the individual selected may serve on a Board or as a grievance examiner. Employees, employee organizations, and other interested parties may submit comments to the Secretary concerning the suitability for service on the panel of any employee whose name is on the list.

(3) The Secretary shall provide training in the functions and duties of Disciplinary Appeals Boards and grievance procedures under section 7463 of this title for employees selected to be on the panel.

(Added Pub. L. 102–40, title II, § 203(a), May 7, 1991, 105 Stat. 206.)

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in section 4110 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

SUBCHAPTER VI—REGIONAL MEDICAL EDUCATION CENTERS

§ 7471. Designation of Regional Medical Education Centers

(a) In carrying out the Secretary's functions under section 7302 of this title with regard to the training of health personnel, the Secretary shall implement a program under which the Secretary shall designate as Regional Medical Education Centers such Department hospitals as the Secretary determines appropriate to carry out the provisions of this subchapter.

(b) Each Regional Medical Education Center (hereinafter in this subchapter referred to as ''Center'') designated under subsection (a) shall provide continuing medical and related education programs for personnel eligible for training under this subchapter. Such programs shall include the following:

(1) The teaching of newly developed medical skills and the use of newly developed medical technologies and equipment.

(2) Advanced clinical instruction.

(3) The opportunity for conducting clinical investigations.

(4) Clinical demonstrations in the use of new types of health personnel and in the better use of the skills of existing health personnel.

(5) Routine verification of basic medical skills and, where determined necessary, remediation of any deficiency in such skills.

(Added Pub. L. 102–40, title IV, § 401(b)(5), May 7, 1991, 105 Stat. 237.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4121 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

§ 7472. Supervision and staffing of Centers

(a) Centers shall be operated under the supervision of the Under Secretary for Health and shall be staffed with personnel qualified to provide the highest quality instruction and training in various medical and health care disciplines.

(b) As a means of providing appropriate recognition to persons in the career service of the Administration who possess outstanding qualifications in a particular medical or health care discipline, the Under Secretary for Health shall from time to time and for such period as the Under Secretary for Health considers appropriate assign such persons to serve as visiting instructors at Centers.

(c) Whenever the Under Secretary for Health considers it necessary for the effective conduct of the program provided for under this subchapter, the Under Secretary for Health may contract for the services of highly qualified medical and health personnel from outside the Department to serve as instructors at such Centers.

(Added Pub. L. 102–40, title IV, § 401(b)(5), May 7, 1991, 105 Stat. 237; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4122 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

§ 7473. Personnel eligible for training

(a) The Under Secretary for Health shall determine the manner in which personnel are to be selected for training in the Centers. Preference shall be given to career personnel of the Administration.

(b) To the extent that facilities are available medical and health personnel from outside the Administration may, on a reimbursable basis, be provided training in the Centers. Such reimbursement may include reciprocal training of personnel of the Administration provided under sharing arrangements entered into by the Under Secretary for Health and the heads of the entities providing such reciprocal training. Any amounts received by the United States as reimbursement under this subsection shall be credited to the applicable Department medical appropriation account.

(Added Pub. L. 102–40, title IV, § 401(b)(5), May 7, 1991, 105 Stat. 237; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4123 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in subsecs. (a) and (b).

§ 7474. Consultation

The Under Secretary for Health shall carry out this subchapter after consultation with the special medical advisory group established pursuant to section 7312(a) of this title.

(Added Pub. L. 102–40, title IV, § 401(b)(5), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 4124 of this title prior to the repeal of that section as part of the complete revision of chapter 73 of this title by Pub. L. 102–40.

AMENDMENTS

1992—Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

[CHAPTER 75—RENUMBERED]

CODIFICATION

Former chapter 75 which consisted of sections 4201 to 4210 was renumbered chapter 78 of this title and transferred to follow chapter 76 of this title, and sections 4201 to 4210 were renumbered sections 7801 to 7810 of this title, respectively.

CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

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7602. Eligibility.
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SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

7671. Authority for program.
7672. Eligibility; agreement.
7673. Scholarship.
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7675. Breach of agreement: liability.
[7676. Repealed.]

SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

7681. Authority for program.
7682. Eligibility.
7683. Education debt reduction.
[7684. Repealed.]

AMENDMENTS

2002—Pub. L. 107–135, title I, §§ 101(a)(2), 102(a)(2), Jan. 23, 2002, 115 Stat. 2447, 2448, struck out items 7676 ''Expiration of program'' and 7684 ''Expiration of program''.

1998—Pub. L. 105–368, title VIII, §§ 802(b), 803(b), Nov. 11, 1998, 112 Stat. 3356, 3358, added headings for subchapters VI and VII and items 7671 to 7676 and 7681 to 7684.

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 4301 to 4355 as 7601 to 7655, respectively.

1990—Pub. L. 101–366, title II, § 205(a)(2), Aug. 15, 1990, 104 Stat. 440, added heading for subchapter V and items 4351 to 4355.

SUBCHAPTER I—GENERAL

§ 7601. Establishment of program; purpose

(a) There is hereby established a program to be known as the Department of Veterans Affairs Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the ''Educational Assistance Program''). The program consists of—

(1) the scholarship program provided for in subchapter II of this chapter;

(2) the tuition reimbursement program provided for in subchapter III of this chapter;

(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter;

(4) the employee incentive scholarship program provided for in subchapter VI of this chapter; and

(5) the education debt reduction program provided for in subchapter VII of this chapter.

(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Department and the Nation.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 518, § 4301; amended Pub. L. 101–366, title II, § 205(c)(1), Aug. 15, 1990, 104 Stat. 441; renumbered § 7601, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(2)(B)(vi), (3), (4), Aug. 6, 1991, 105 Stat. 403, 404; Pub. L. 103–446, title XII, § 1201(e)(25), Nov. 2, 1994, 108 Stat. 4686; Pub. L. 105–368, title VIII, § 805(1), Nov. 11, 1998, 112 Stat. 3358.)

AMENDMENTS

1998—Subsec. (a)(4), (5). Pub. L. 105–368 added pars. (4) and (5).

1994—Subsec. (a)(1). Pub. L. 103–446 substituted semicolon for comma at end.

1991—Pub. L. 102–40 renumbered section 4301 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(a)(2)(B)(vi), substituted ''Department of Veterans Affairs'' for ''Veterans' Administration'' in introductory provisions.

Subsec. (b). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1990—Subsec. (a)(3). Pub. L. 101–366 added par. (3).

PAYMENTS TO HEALTH-CARE PROFESSIONAL EMPLOYEES FOR TUITION LOANS

Pub. L. 102–585, title V, § 523(b), Nov. 4, 1992, 106 Stat. 4959, provided that Secretary of Veterans Affairs could not provide payments to health-care professional employees of Department of Veterans Affairs for payment of tuition loans, prior to repeal by Pub. L. 105–368, title VIII, § 804, Nov. 11, 1998, 112 Stat. 3358.

TUITION LOAN PAYMENT PROGRAM

Pub. L. 102–389, title I, Oct. 6, 1992, 106 Stat. 1574, provided in part for an appropriation: ''For payment of outstanding tuition loans to Department of Veterans Affairs health care professional employees (excluding physicians and dentists) who agree to remain in service for one year or more, $5,000,000, to remain available until September 30, 1994: *Provided*, That the Secretary, in order to recruit and retain such employees, may make such payments, not to exceed $3,000 during any calendar year, or $12,000 in total, to any such employee who has an outstanding tuition loan from an educational institution approved by the Secretary that has led to a degree in the health care occupation in which such individual is employed: *Provided further*, That no payment shall be made in advance: *Provided further*, That regulations shall be promulgated by the Secretary to implement this program.''

§ 7602. Eligibility

(a)(1) To be eligible to participate in the Educational Assistance Program under subchapter II, III, or VI of this chapter, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter, for which tuition reimbursement may be provided under subchapter III of this chapter, or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be.

(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Secretary) is an accredited institution.

(b) An individual is not eligible to apply to participate in the Educational Assistance Program under subchapter II, III, or VI of this chapter if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 518, § 4302; amended Pub. L. 101–366, title II, § 205(c)(2), Aug. 15, 1990, 104 Stat. 441; renumbered § 7602, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105–368, title VIII, § 805(2), Nov. 11, 1998, 112 Stat. 3358.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–368, § 805(2)(A), substituted ''subchapter II, III, or VI'' for ''subchapter I or II'', substituted '', for which'' for ''or for which'', and inserted before period at end '', or for which a scholarship may be awarded under subchapter VI of this chapter, as the case may be''.

Subsec. (b). Pub. L. 105–368, § 805(2)(B), substituted ''subchapter II, III, or VI'' for ''subchapter I or II''.

1991—Pub. L. 102–40 renumbered section 4302 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in pars. (1) and (2).

1990—Subsecs. (a)(1), (b). Pub. L. 101–366 inserted ''under subchapter I or II of this chapter'' after ''Educational Assistance Program''.

§ 7603. Application and acceptance

(a)(1) To apply to participate in the Educational Assistance Program under subchapter II, III, V, or VI of this chapter, an individual shall submit to the Secretary an application for such participation together with an agreement described in section 7604 of this title under which the participant agrees to serve a period of obligated service in the Veterans Health Administration as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(2) To apply to participate in the Educational Assistance Program under subchapter VII of this chapter, an individual shall submit to the Secretary an application for such participation.

(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Secretary's approval of the individual's application and the Secretary's acceptance of the agreement (if required).

(2) Upon the Secretary's approval of an individual's participation in the program, the Secretary shall promptly notify the individual of that approval. Such notice shall be in writing.

(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Secretary shall include with such forms the following:

(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Secretary, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Veterans Health Administration.

(2) The Secretary shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

(d) In selecting applicants for acceptance in the Educational Assistance Program, the Secretary shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 518, § 4303; renumbered § 7603 and

amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–446, title XII, § 1201(b)(1), Nov. 2, 1994, 108 Stat. 4682; Pub. L. 105–368, title VIII, § 805(3), Nov. 11, 1998, 112 Stat. 3359; Pub. L. 106–419, title IV, § 404(a)(10), Nov. 1, 2000, 114 Stat. 1865.)

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106–419 substituted ''subchapter'' for ''subsection''.

1998—Subsec. (a). Pub. L. 105–368, § 805(3)(A), designated existing provisions as par. (1), substituted ''To apply to participate in the Educational Assistance Program under subsection II, III, V, or VI of this chapter,'' for ''To apply to participate in the Educational Assistance Program,'', and added par. (2).

Subsec. (b)(1). Pub. L. 105–368, § 805(3)(B), inserted ''(if required)'' before period at end.

1994—Subsecs. (a), (c)(1)(B). Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4303 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''7604'' for ''4304''.

Subsecs. (b) to (d). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

§ 7604. Terms of agreement

An agreement between the Secretary and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

(1) The Secretary's agreement—

(A) to provide the participant with educational assistance as authorized in subchapter II, III, V, or VI of this chapter and specified in the agreement; and

(B) to afford the participant the opportunity for employment in the Veterans Health Administration (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 7402 of this title).

(2) The participant's agreement—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in the course of training until completed;

(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Secretary); and

(D) after completion of the course of training, to serve as a full-time employee in the Veterans Health Administration as specified in the agreement in accordance with subchapter II, III, V, or VI of this chapter.

(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

(5) Such other terms as are required to be included in the agreement under subchapter II, III, V, or VI of this chapter or as the Secretary may require consistent with the provisions of this chapter.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 519, § 4304; amended Pub. L. 101–366, title II, § 205(c)(3), Aug. 15, 1990, 104 Stat. 441; renumbered § 7604 and amended Pub. L. 102–40, title IV, §§ 402(b)(1), 403(b)(3), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–446, title XII, § 1201(b)(1), (e)(26), Nov. 2, 1994, 108 Stat. 4682, 4686; Pub. L. 105–368, title VIII, § 805(4), Nov. 11, 1998, 112 Stat. 3359.)

AMENDMENTS

1998—Pub. L. 105–368 substituted ''subchapter II, III, V, or VI'' for ''subchapter II, III, or V'' in pars. (1)(A), (2)(D), and (5).

1994—Pub. L. 103–446, § 1201(e)(26), substituted ''subchapter II'' for ''subchapters II'' in pars. (1)(A), (2)(D), and (5).

Pub. L. 103–446, § 1201(b)(1), substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery'' in pars. (1)(B) and (2)(D).

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4304 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Pub. L. 102–40, § 403(b)(3), substituted ''7402'' for ''4105'' in par. (1)(B).

1990—Pars. (1)(A), (2)(D), (5). Pub. L. 101–366 substituted ''subchapters II, III, or V'' for ''subchapter II or III''.

SUBCHAPTER II—SCHOLARSHIP PROGRAM

§ 7611. Authority for program

As part of the Educational Assistance Program, the Secretary shall carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Health Professional Scholarship Program (hereinafter in this chapter referred to as the ''Scholarship Program'').

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 520, § 4311; renumbered § 7611, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(a)(2)(B)(vi), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4311 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department of Veterans Affairs'' for ''Veterans' Administration''.

SUBMISSION OF OVERDUE REPORT

Pub. L. 105–114, title II, § 207(b), Nov. 21, 1997, 111 Stat. 2289, provided that: ''The Secretary of Veterans Affairs shall submit to Congress not later than 180 days after the date of the enactment of this Act [Nov. 21, 1997] the report evaluating the operation of the health professional scholarship program required to be submitted not later than March 31, 1997, under section 202(b) of Public Law 104–110 (110 Stat. 770) [set out below].''

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

Pub. L. 104–110, title II, § 202(b), Feb. 13, 1996, 110 Stat. 770, provided that:

''(1) The Secretary shall submit to Congress, not later than March 31, 1997, a report setting forth the results of a study evaluating the operation of the health professional scholarship program under subchapter II of chapter 76 of title 38, United States Code. The study shall evaluate the efficacy of the program with respect to recruitment and retention of health care personnel for the Department of Veterans Affairs and shall compare the costs and benefits of the program with the costs and benefits of alternative methods of ensuring adequate recruitment and retention of such personnel.

''(2) The Secretary shall carry out the study under this paragraph through a private contractor. The report under paragraph (1) shall include the report of the contractor and the comments, if any, of the Secretary on that report.''

§ 7612. Eligibility; application; agreement

(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 7602 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

(2) An individual who is an eligible Department employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 7602 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a ''part-time student''.)

(3) For the purposes of paragraph (2) of this subsection, an eligible Department employee is a full-time Department employee who is permanently assigned to a Department health-care facility on the date on which the individual submits the application referred to in section 7603 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 7401 of this title) as any of the following:

(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

(B) A psychologist described in section 7401(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

(3) The Secretary may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under subsection (a)(1) of section 7455 of this title for personnel described in subsection (a)(2)(B) of such section.

(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Secretary shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Secretary's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Department with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

(5) In selecting applicants for the Scholarship Program, the Secretary—

(A) shall give priority to applicants who will be entering their final year in a course of training; and

(B) shall ensure an equitable allocation of scholarships to persons enrolled in the second year of a program leading to an associate degree in nursing.

(c)(1) An agreement between the Secretary and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

(A) The Secretary's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 7602 of this title.

(B) The participant's agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the ''period of obligated service'') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program, but for not less than two years.

(2) In a case in which an extension is granted under section 7614(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

(3) In the case of a participant who is a part-time student—

(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Department employee permanently assigned to a Department health-care facility.

(4) If a participant's period of obligated service is deferred under section 7616(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Secretary under section 7616(b)(4)(B) of this title.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 520, § 4312; amended Pub. L. 101–237, title II, § 207(a), Dec. 18, 1989, 103 Stat. 2068; renumbered § 7612 and amended Pub. L. 102–40, title IV, §§ 402(b)(1), (d)(1), 403(b)(4), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405;

Pub. L. 102–405, title II, § 202(a), Oct. 9, 1992, 106 Stat. 1983; Pub. L. 103–446, title XII, § 1201(b)(1), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsec. (c)(1)(B). Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

1992—Subsec. (c)(1)(B). Pub. L. 102–405 inserted before period at end '', but for not less than two years''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4312 of this title as this section.

Subsec. (a)(1). Pub. L. 102–40, § 402(d)(1), substituted ''7602'' for ''4302''.

Subsec. (a)(2). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''7602'' for ''4302''.

Subsec. (a)(3). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–40, § 402(d)(1), substituted ''7603'' for ''4303''.

Subsec. (b)(2). Pub. L. 102–40, § 403(b)(4)(A), substituted ''7401'' for ''4104'' in introductory provisions and ''7401(3)'' for ''4104(3)'' in subpar. (B).

Subsec. (b)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 403(b)(4)(B), substituted ''subsection (a)(1) of section 7455 of this title for personnel described in subsection (a)(2)(B) of such section'' for ''section 4107(g)(1)(B) of this title''.

Subsec. (b)(4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and ''Secretary's'' for ''Administrator's'' in subpar. (A).

Pub. L. 102–40, § 402(d)(1), substituted ''7604'' for ''4304'' in introductory provisions and ''7602'' for ''4302'' in subpar. (A).

Subsec. (c)(2). Pub. L. 102–40, § 402(d)(1), substituted ''7614(3)'' for ''4314(3)''.

Subsec. (c)(3)(B). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (c)(4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''7616(b)(3)(A)(i)'' for ''4316(b)(3)(A)(i)'' and ''7616(b)(4)(B)'' for ''4316(b)(4)(B)''.

1989—Subsec. (b)(5). Pub. L. 101–237 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 202(b) of Pub. L. 102–405 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to scholarship agreements entered into after the date of the enactment of this Act [Oct. 9, 1992].''

IMPLEMENTATION OF EQUITABLE ALLOCATION PROVISIONS

Section 207(b) of Pub. L. 101–237 provided that: ''The Secretary of Veterans Affairs shall provide for the implementation of the amendment made by subsection (a) [amending this section] beginning with scholarships awarded under section 4312 [now 7612] of title 38, United States Code, during 1990.''

§ 7613. Scholarship

(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 7631 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Department. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 7614(1) and 7614(2) of this title.

(c) The Secretary may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 521, § 4313; renumbered § 7613 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4313 of this title as this section.

Subsec. (b). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''7631'' for ''4331'' and ''7614(1) and 7614(2)'' for ''4314(1) and ''4314(2)''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

§ 7614. Part-time students

In the case of a participant who is a part-time student—

(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

(3) the Secretary may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 522, § 4314; renumbered § 7614, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4314 of this title as this section.

Par. (3). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places.

§ 7615. Status of participants

Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Veterans Health Administration.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 522, § 4315; renumbered § 7615, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 103–446, title XII, § 1201(b)(1), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

1991—Pub. L. 102–40 renumbered section 4315 of this title as this section.

§ 7616. Obligated service

(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Secretary.

(b)(1) Not later than 60 days before the participant's service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

(2) As soon as possible after the participant's service commencement date, the Secretary shall—

(A) in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint such participant as such an employee; and

(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Secretary may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Secretary shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 7423(d)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Department health-care facility. Such a participant may, at the discretion of the Secretary and upon the recommendation of the Under Secretary for Health, incur an additional period of obligated service—

(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Department (as determined under regulations prescribed by the Secretary); or

(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Department (as determined under regulations prescribed by the Secretary).

(5) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Veterans Health Administration; or

(B) if the participant is a full-time employee in the Veterans Health Administration on

such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

(3) For the purposes of this section, the term ''course completion date'' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 522, § 4316; renumbered § 7616 and amended Pub. L. 102–40, title IV, §§ 402(b)(1), (d)(1), 403(b)(5), May 7, 1991, 105 Stat. 238–240; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(b)(1), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsecs. (b)(2), (c)(1), (2). Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery'' wherever appearing.

1992—Subsec. (b)(4). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4316 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''7603'' for ''4303''.

Subsec. (b)(1) to (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–40, § 403(b)(5), substituted ''7423(d)(1)'' for ''4108(c)(1)'' in introductory provisions.

Subsec. (b)(5). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

§ 7617. Breach of agreement: liability

(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

(2) The participant is dismissed from such educational institution for disciplinary reasons.

(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Department employee permanently assigned to a Department health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi \left(\frac{t-s}{t}\right)$$

In such formula:

(A) ''A'' is the amount the United States is entitled to recover.

(B) ''Φ'' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) ''t'' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 7616(b)(4) of this title.

(D) ''s'' is the number of months of such period served by the participant in accordance with section 7613 of this title.

(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 524, § 4317; renumbered § 7617 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4317 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 402(d)(1), substituted ''7603'' for ''4303''.

Subsec. (b)(1), (4). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(5). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (c)(1). Pub. L. 102–40, § 402(d)(1), substituted ''7616(b)(4)'' for ''4316(b)(4)'' in subpar. (C) and ''7613'' for ''4313'' in subpar. (D).

§ 7618. Expiration of program

The Secretary may not furnish scholarships to new participants in the Scholarship Program after December 31, 1998.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 525, § 4318; renumbered § 7618, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–585, title V, § 523(a), Nov. 4, 1992, 106 Stat. 4959; Pub. L. 104–110, title I, § 101(j), Feb. 13, 1996, 110 Stat. 769; Pub. L. 105–114, title II, § 207(a), Nov. 21, 1997, 111 Stat. 2289.)

AMENDMENTS

1997—Pub. L. 105–114 substituted ''December 31, 1998'' for ''December 31, 1997''.

1996—Pub. L. 104–110 substituted ''December 31, 1997'' for ''December 31, 1995''.

1992—Pub. L. 102–585 substituted ''December 31, 1995'' for ''September 30, 1992''.

1991—Pub. L. 102–40 renumbered section 4318 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

§ 7621. Authority for program

As part of the Educational Assistance Program, the Secretary shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Department of Veterans Affairs Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the ''Tuition Reimbursement Program'').

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 525, § 4321; renumbered § 7621, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(a)(2)(B)(vi), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4321 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department of Veterans Affairs'' for ''Veterans' Administration''.

§ 7622. Eligibility; application; agreement

(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Department permanently assigned to a Department health-care facility and must be enrolled in a course of training offered by an institution approved by the Secretary leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Secretary (in addition to according priorities as set forth in section 7603(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Department. The Secretary shall then give priority, in the following order, to—

(1) individuals who have been employed as full-time employees in the Nursing Service in the Veterans Health Administration; and

(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

(c) An agreement between the Secretary and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 7604 of this title) contain the following:

(1) The Secretary's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Secretary, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

(2) The participant's agreement—

(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Department employee in the Veterans Health Administration permanently assigned to a Department health-care facility; and

(B) to continue to serve as a full-time employee in the Veterans Health Administration for one year (hereinafter in this subchapter referred to as the ''period of obligated service'') after completion of the course for which the participant received tuition reimbursement.

(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program

may not exceed $2,000 per year (adjusted in accordance with section 7631 of this title).

(e) The Secretary may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Department health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Secretary may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 525, § 4322; renumbered § 7622 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(e)(9), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–446, title XII, § 1201(b), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsecs. (b)(1), (c)(2)(A). Pub. L. 103–446, § 1201(b)(1), substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

Subsec. (c)(2)(B). Pub. L. 103–446, § 1201(b)(2), substituted ''the Veterans Health Administration'' for ''such Department''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4322 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

Pub. L. 102–40, § 402(d)(1), substituted ''7603(d)'' for ''4303(d)''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and in par. (1) and ''Secretary's'' for ''Administrator's'' in par. (1).

Pub. L. 102–40, § 402(d)(1), substituted ''7604'' for ''4304'' in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places in par. (2)(A).

Subsec. (d). Pub. L. 102–54 amended subsec. (d) as in effect immediately before the enactment of Pub. L. 102–40 by inserting an open parenthesis before ''adjusted in''.

Pub. L. 102–40, § 402(d)(1), substituted ''7631'' for ''4331''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

§ 7623. Obligated service

(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such participant entered into under section 7603 of this title.

(b) A participant who on such participant's course completion date is a full-time employee in the Veterans Health Administration shall be considered to have begun serving such participant's period of obligated service on the course completion date.

(c) Except in the case of a participant whose tuition was paid pursuant to section 7622(e) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

(d) In the case of a participant whose tuition was paid pursuant to section 7622(e) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

(e) For the purposes of this section, the term ''course completion date'' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 526, § 4323; amended Pub. L. 100–687, div. B, title XV, § 1503(a)(3), Nov. 18, 1988, 102 Stat. 4134; renumbered § 7623 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 103–446, title XII, § 1201(b)(1), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4323 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''7603'' for ''4303''.

Subsecs. (c), (d). Pub. L. 102–40, § 402(d)(1), substituted ''7622(e)'' for ''4322(e)''.

1988—Subsecs. (c), (d). Pub. L. 100–687 substituted ''4322(e)'' for ''4322(f)''.

§ 7624. Breach of agreement: liability

(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Department employee permanently assigned to a Department health-care facility—

(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

(2) in lieu of any service obligation arising from participation in the program, shall be liable to the United States for the amount which has been paid or is payable to or on behalf of the participant under the agreement, reduced by the proportion that the number of days served for completion of the service obligation bears to the total number of days in the participant's period of obligated service.

(b) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 527, § 4324; amended Pub. L.

100–687, div. B, title XV, § 1503(a)(4), Nov. 18, 1988, 102 Stat. 4134; renumbered § 7624, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4324 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' in two places in introductory provisions.

1988—Subsec. (a)(2). Pub. L. 100–687, § 1503(a)(4)(A), substituted ''participation in the program'' for ''completion of a course or courses in a previous semester or quarter'', inserted ''or is payable'' after ''has been paid'', and inserted before period at end '', reduced by the proportion that the number of days served for completion of the service obligation bears to the total number of days in the participant's period of obligated service''.

Subsec. (b). Pub. L. 100–687, § 1503(a)(4)(B), struck out par. (1) which related to formula to apply to recover amount from participant who breaches agreement by failing to complete period of obligated service, and struck out par. (2) designation before ''Any amount''.

§ 7625. Allocation and distribution of funding

In determining the amount of funding to allocate to Department health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Secretary shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Secretary.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 527, § 4325; renumbered § 7625, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4325 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places and substituted ''Department'' for ''Veterans' Administration''.

SUBCHAPTER IV—ADMINISTRATIVE MATTERS

§ 7631. Periodic adjustments in amount of assistance

(a)(1) Whenever there is a general Federal pay increase, the Secretary shall increase the maximum monthly stipend amount, the maximum tuition reimbursement amount, the maximum Selected Reserve member stipend amount, the maximum employee incentive scholarship amount, and the maximum education debt reduction payments amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

(b) For purposes of this section:

(1) The term ''maximum monthly stipend amount'' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 7613(b) of this title and as previously adjusted (if at all) in accordance with this section.

(2) The term ''maximum tuition reimbursement amount'' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 7622(e) of this title and as previously adjusted (if at all) in accordance with this section.

(3) The term ''maximum Selected Reserve member stipend amount'' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 7653 of this title and as previously adjusted (if at all) in accordance with this section.

(4) The term ''maximum employee incentive scholarship amount'' means the maximum amount of the scholarship payable to a participant in the Department of Veterans Affairs Employee Incentive Scholarship Program under subchapter VI of this chapter, as specified in section 7673(b)(1) of this title and as previously adjusted (if at all) in accordance with this section.

(5) The term ''maximum education debt reduction payments amount'' means the maximum amount of education debt reduction payments payable to a participant in the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of this chapter, as specified in section 7683(d)(1) of this title and as previously adjusted (if at all) in accordance with this section.

(6) The term ''general Federal pay increase'' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 53 of title 5.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 528, § 4331; amended Pub. L. 101–366, title II, § 205(b), Aug. 15, 1990, 104 Stat. 441; renumbered § 7631 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(e)(10), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 107–135, title I, §§ 101(f), (g), 102(d)(1), Jan. 23, 2002, 115 Stat. 2448, 2449.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–135, §§ 101(f)(1), 102(d)(1)(A), substituted ''the maximum Selected Reserve member stipend amount, the maximum employee incentive scholarship amount, and the maximum education debt reduction payments amount'' for ''and the maximum Selected Reserve member stipend amount''.

Subsec. (b)(1) to (3). Pub. L. 107–135, § 101(g), substituted ''this section'' for ''this subsection'' in pars. (1) to (3).

Subsec. (b)(4). Pub. L. 107–135, § 101(f)(2)(B), added par. (4). Former par. (4) redesignated (6).

Subsec. (b)(5). Pub. L. 107–135, § 102(d)(1)(B), added par. (5).

Subsec. (b)(6). Pub. L. 107–135, § 101(f)(2)(A), redesignated par. (4) as (6).

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4331 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Subsec. (b)(1). Pub. L. 102–40, § 402(d)(1), substituted ''7613(b)'' for ''4313(b)''.

Subsec. (b)(2). Pub. L. 102–40, § 402(d)(1), substituted ''7622(e)'' for ''4322(e)''.

Subsec. (b)(3). Pub. L. 102–40, § 402(d)(1), substituted ''7653'' for ''4353''.

Subsec. (b)(4). Pub. L. 102–54 amended subsec. (b)(4) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''chapter 53'' for ''chapter 51''.

1990—Subsec. (a)(1). Pub. L. 101–366, § 205(b)(1), substituted ''stipend amount,'' for ''stipend amount and'' and ''reimbursement amount, and the maximum Selected Reserve member stipend amount'' for ''reimbursement amount''.

Subsec. (b)(3), (4). Pub. L. 101–366, § 205(b)(2), added par. (3) and redesignated former par. (3) as (4).

ADJUSTMENT OF MAXIMUM EDUCATION DEBT REDUCTION PAYMENTS AMOUNT

Pub. L. 107–135, title I, § 102(d)(2), Jan. 23, 2002, 115 Stat. 2449, prohibited an increase of the maximum education debt reduction payments amount in calendar year 2002.

TRANSITION

Section 216(d) of Pub. L. 100–322 provided that: ''Section 4331 [now 7631] of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.''

§ 7632. Annual report

Not later than March 1 of each year, the Secretary shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program, the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program separately, and the number of students (if any) enrolled in each type of health profession training under each program.

(2) The education institutions (if any) providing such training to students in each program.

(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

(4) The average amounts of educational assistance provided per participant in the Scholarship Program, per participant in the Tuition Reimbursement Program, per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program.

(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 528, § 4332; renumbered § 7632, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 105–368, title VIII, § 805(5), Nov. 11, 1998, 112 Stat. 3359.)

AMENDMENTS

1998—Par. (1). Pub. L. 105–368, § 805(5)(A), substituted '', the Tuition Reimbursement Program, the Employee Incentive Scholarship Program, and the Education Debt Reduction Program'' for ''and the Tuition Reimbursement Program'' and inserted ''(if any)'' after ''number of students''.

Par. (2). Pub. L. 105–368, § 805(5)(B), inserted ''(if any)'' after ''education institutions''.

Par. (4). Pub. L. 105–368, § 805(5)(C), substituted '', per participant'' for ''and per participant'' and inserted '', per participant in the Employee Incentive Scholarship Program, and per participant in the Education Debt Reduction Program'' before period at end.

1991—Pub. L. 102–40 renumbered section 4332 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in introductory provisions.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in this section, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 145 of House Document No. 103–7.

§ 7633. Regulations

The Secretary shall prescribe regulations to carry out the Educational Assistance Program.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 529, § 4333; renumbered § 7633, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4333 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

§ 7634. Breach of agreement; waiver of liability

(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

(b) The Secretary shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Secretary determines that the waiver or suspension of compliance is in the best interest of the United States.

(c) An obligation of a participant under the Educational Assistance Program (or an agree-

ment thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 529, § 4334; renumbered § 7634, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4334 of this title as this section.

Subsec. (b). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places.

§ 7635. Service in other agencies

(a) The Secretary, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

(1) a period of obligated service required under this chapter to be performed in the Veterans Health Administration to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Veterans Health Administration; and

(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Veterans Health Administration.

(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 529, § 4335; renumbered § 7635, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–446, title XII, § 1201(b)(1), Nov. 2, 1994, 108 Stat. 4682.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery'' wherever appearing.

1991—Pub. L. 102–40 renumbered section 4335 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in introductory provisions.

§ 7636. Exemption of educational assistance payments from taxation

Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, a stipend, or education debt reduction under this chapter shall be exempt from taxation.

(Added Pub. L. 100–322, title II, § 216(b), May 20, 1988, 102 Stat. 529, § 4336; renumbered § 7636, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 105–368, title VIII, § 805(6), Nov. 11, 1998, 112 Stat. 3359.)

AMENDMENTS

1998—Pub. L. 105–368 substituted ''a stipend, or education debt reduction'' for ''or a stipend''.

1991—Pub. L. 102–40 renumbered section 4336 of this title as this section.

SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

§ 7651. Authority for program

(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

(Added Pub. L. 101–366, title II, § 205(a)(1), Aug. 15, 1990, 104 Stat. 439, § 4351; renumbered § 7651, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4351 of this title as this section.

§ 7652. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

The Secretary of Veterans Affairs may not approve an application under section 7603 of this title of an individual applying to receive assistance under this subchapter unless—

(1) the individual is entitled to benefits under chapter 106 of title 10; and

(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

(Added Pub. L. 101–366, title II, § 205(a)(1), Aug. 15, 1990, 104 Stat. 440, § 4352; renumbered § 7652 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4352 of this title as this section and substituted ''7603'' for ''4303'' in introductory provisions.

§ 7653. Amount of assistance

The Secretary may pay to a person selected to receive assistance under this subchapter the amount of $400 (adjusted in accordance with section 7631 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 7603 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

(Added Pub. L. 101–366, title II, § 205(a)(1), Aug. 15, 1990, 104 Stat. 440, § 4353; renumbered § 7653 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4353 of this title as this section and substituted ''7631'' for ''4331'' and ''7603'' for ''4303''.

§ 7654. Obligated service

A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 7603 of this title.

(Added Pub. L. 101–366, title II, § 205(a)(1), Aug. 15, 1990, 104 Stat. 440, § 4354; renumbered § 7654 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4354 of this title as this section and substituted ''7603'' for ''4303''.

§ 7655. Breach of agreement; liability

(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under section 7654 of this title shall be liable to the United States in an amount determined in accordance with section 7617(c)(1) of this title.

(2) An individual who, as a result of performing active duty (including active duty for training), is unable to perform the service for which the individual is obligated under section 7654 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 7654 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement.

(Added Pub. L. 101–366, title II, § 205(a)(1), Aug. 15, 1990, 104 Stat. 440, § 4355; renumbered § 7655 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 4355 of this title as this section.

Subsec. (a)(1). Pub. L. 102–40, § 402(d)(1), substituted ''7654'' for ''4354'' and ''7617(c)(1)'' for ''4317(c)(1)''.

Subsec. (a)(2). Pub. L. 102–40, § 402(d)(1), substituted ''7654'' for ''4354'' in two places.

SUBCHAPTER VI—EMPLOYEE INCENTIVE SCHOLARSHIP PROGRAM

§ 7671. Authority for program

As part of the Educational Assistance Program, the Secretary may carry out a scholarship program under this subchapter. The program shall be known as the Department of Veterans Affairs Employee Incentive Scholarship Program (hereinafter in this subchapter referred to as the ''Program''). The purpose of the Program is to assist, through the establishment of an incentive program for individuals employed in the Veterans Health Administration, in meeting the staffing needs of the Veterans Health Administration for health professional occupations for which recruitment or retention of qualified personnel is difficult.

(Added Pub. L. 105–368, title VIII, § 802(a), Nov. 11, 1998, 112 Stat. 3352; amended Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

§ 7672. Eligibility; agreement

(a) ELIGIBILITY.—To be eligible to participate in the Program, an individual must be an eligible Department employee who is accepted for enrollment or enrolled (as described in section 7602 of this title) as a full-time or part-time student in a field of education or training described in subsection (c).

(b) ELIGIBLE DEPARTMENT EMPLOYEES.—For purposes of subsection (a), an eligible Department employee is any employee of the Department who, as of the date on which the employee submits an application for participation in the Program, has been continuously employed by the Department for not less than one year.

(c) QUALIFYING FIELDS OF EDUCATION OR TRAINING.—A scholarship may be awarded under the Program only for education and training in a field leading to appointment or retention in a position under section 7401 of this title.

(d) AWARD OF SCHOLARSHIPS.—Notwithstanding section 7603(d) of this title, the Secretary, in selecting participants in the Program, may award a scholarship only to applicants who have a record of employment with the Veterans Health Administration which, in the judgment of the Secretary, demonstrates a high likelihood that the applicant will be successful in completing such education or training and in employment in such field.

(e) AGREEMENT.—(1) An agreement between the Secretary and a participant in the Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

(A) The Secretary's agreement to provide the participant with a scholarship under the Program for a specified number (from one to three) of school years during which the participant pursues a course of education or training described in subsection (c) that meets the requirements set forth in section 7602(a) of this title.

(B) The participant's agreement to serve as a full-time employee in the Veterans Health Administration for a period of time (hereinafter in this subchapter referred to as the ''period of obligated service'') determined in accordance with regulations prescribed by the Secretary of up to three calendar years for each school year or part thereof for which the participant was provided a scholarship under the Program, but for not less than 3 years.

(C) The participant's agreement to serve under subparagraph (B) in a Department facility selected by the Secretary.

(2) In a case in which an extension is granted under section 7673(c)(2) of this title, the number of years for which a scholarship may be provided under the Program shall be the number of school years provided for as a result of the extension.

(3) In the case of a participant who is a part-time student, the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than 1 year.

(Added Pub. L. 105–368, title VIII, § 802(a), Nov. 11, 1998, 112 Stat. 3352; amended Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35; Pub. L. 107–135, title I, § 101(b), Jan. 23, 2002, 115 Stat. 2447.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–135 substituted ''one year'' for ''2 years''.

2001—Subsec. (e)(1)(B). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

§ 7673. Scholarship

(a) SCHOLARSHIP.—A scholarship provided to a participant in the Program for a school year shall consist of payment of the tuition (or such portion of the tuition as may be provided under subsection (b)) of the participant for that school year and payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year.

(b) AMOUNTS.—The total amount of the scholarship payable under subsection (a)—

(1) in the case of a participant in the Program who is a full-time student, may not exceed $10,000 for the equivalent of one year of full-time coursework; and

(2) in the case of a participant in the Program who is a part-time student, shall bear the same ratio to the amount that would be paid under paragraph (1) if the participant were a full-time student in the course of education or training being pursued by the participant as the coursework carried by the participant to full-time coursework in that course of education or training.

(c) LIMITATIONS ON PERIOD OF PAYMENT.—(1) The maximum number of school years for which a scholarship may be paid under subsection (a) to a participant in the Program shall be six school years.

(2) A participant in the Program may not receive a scholarship under subsection (a) for more than the equivalent of three years of full-time coursework.

(d) PAYMENT OF EDUCATIONAL EXPENSES BY EDUCATIONAL INSTITUTIONS.—The Secretary may arrange with an educational institution in which a participant in the Program is enrolled for the payment of the educational expenses described in subsection (a). Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

(e) FULL-TIME COURSEWORK.—For purposes of this section, full-time coursework shall consist of the following:

(1) In the case of undergraduate coursework, 30 semester hours per undergraduate school year.

(2) In the case of graduate coursework, 18 semester hours per graduate school year.

(Added Pub. L. 105–368, title VIII, § 802(a), Nov. 11, 1998, 112 Stat. 3353; amended Pub. L. 107–135, title I, § 101(c)–(e), Jan. 23, 2002, 115 Stat. 2447, 2448.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–135, § 101(c)(1), substituted ''for the equivalent of one year of full-time coursework'' for ''for any 1 year''.

Subsec. (b)(2). Pub. L. 107–135, § 101(c)(2), added par. (2) and struck out former par. (2) which read as follows: ''in the case of a participant in the Program who is a part-time student, shall be the amount specified in paragraph (1) reduced in accordance with the proportion that the number of credit hours carried by the participant in that school year bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant.''

Subsec. (c). Pub. L. 107–135, § 101(d), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows:

''(1) Subject to paragraph (2), a participant in the Program may not receive a scholarship under subsection (a) for more than three school years.

''(2) The Secretary may extend the number of school years for which a scholarship may be awarded to a participant in the Program who is a part-time student to a maximum of six school years if the Secretary determines that the extension would be in the best interest of the United States.''

Subsec. (e). Pub. L. 107–135, § 101(e), added subsec. (e).

§ 7674. Obligated service

(a) IN GENERAL.—Each participant in the Program shall provide service as a full-time employee of the Department for the period of obligated service provided in the agreement of the participant entered into under section 7603 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Secretary.

(b) DETERMINATION OF SERVICE COMMENCEMENT DATE.—(1) Not later than 60 days before a participant's service commencement date, the Secretary shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

(2) As soon as possible after a participant's service commencement date, the Secretary shall—

(A) in the case of a participant who is not a full-time employee in the Veterans Health Administration, appoint the participant as such an employee; and

(B) in the case of a participant who is an employee in the Veterans Health Administration but is not serving in a position for which the participant's course of education or training prepared the participant, assign the participant to such a position.

(3)(A) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date

upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State.

(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of—

(i) the participant's course completion date; or

(ii) the date upon which the participant becomes licensed as a registered nurse in a State.

(C) In the case of a participant not covered by subparagraph (A) or (B), the participant's service commencement date is the later of—

(i) the participant's course completion date; or

(ii) the date the participant meets any applicable licensure or certification requirements.

(4) The Secretary shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3).

(c) COMMENCEMENT OF OBLIGATED SERVICE.—(1) Except as provided in paragraph (2), a participant in the Program shall be considered to have begun serving the participant's period of obligated service—

(A) on the date, after the participant's course completion date, on which the participant (in accordance with subsection (b)) is appointed as a full-time employee in the Veterans Health Administration; or

(B) if the participant is a full-time employee in the Veterans Health Administration on such course completion date, on the date thereafter on which the participant is assigned to a position for which the participant's course of training prepared the participant.

(2) A participant in the Program who on the participant's course completion date is a full-time employee in the Veterans Health Administration serving in a capacity for which the participant's course of training prepared the participant shall be considered to have begun serving the participant's period of obligated service on such course completion date.

(d) COURSE COMPLETION DATE DEFINED.—In this section, the term ''course completion date'' means the date on which a participant in the Program completes the participant's course of education or training under the Program.

(Added Pub. L. 105–368, title VIII, § 802(a), Nov. 11, 1998, 112 Stat. 3354.)

§ 7675. Breach of agreement: liability

(a) LIQUIDATED DAMAGES.—A participant in the Program (other than a participant described in subsection (b)) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 7603 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

(b) LIABILITY DURING COURSE OF EDUCATION OR TRAINING.—(1) Except as provided in subsection (d), a participant in the Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

(A) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Secretary).

(B) The participant is dismissed from such educational institution for disciplinary reasons.

(C) The participant voluntarily terminates the course of education or training in such educational institution before the completion of such course of education or training.

(D) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Secretary.

(E) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by the participant, as a Department employee.

(2) Liability under this subsection is in lieu of any service obligation arising under a participant's agreement.

(c) LIABILITY DURING PERIOD OF OBLIGATED SERVICE.—(1) Except as provided in subsection (d), if a participant in the Program breaches the agreement by failing for any reason to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi \left(\frac{t-s}{t}\right)$$

(2) In such formula:

(A) ''A'' is the amount the United States is entitled to recover.

(B) ''Φ'' is the sum of—

(i) the amounts paid under this subchapter to or on behalf of the participant; and

(ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) ''t'' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 7673(c)(2) of this title.

(D) ''s'' is the number of months of such period served by the participant in accordance with section 7673 of this title.

(d) LIMITATION ON LIABILITY FOR REDUCTIONS-IN-FORCE.—Liability shall not arise under subsection (b)(1)(E) or (c) in the case of a participant otherwise covered by the subsection concerned if the participant fails to maintain employment as a Department employee due to a staffing adjustment.

(e) PERIOD FOR PAYMENT OF DAMAGES.—Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the 1-year period beginning on the date of the breach of the agreement.

(Added Pub. L. 105–368, title VIII, § 802(a), Nov. 11, 1998, 112 Stat. 3355.)

[§ 7676. Repealed. Pub. L. 107–135, title I, § 101(a)(1), Jan. 23, 2002, 115 Stat. 2447]

Section, added Pub. L. 105–368, title VIII, § 802(a), Nov. 11, 1998, 112 Stat. 3356, provided that the Secretary could not furnish scholarships to individuals who had not commenced participation in the Program before Dec. 31, 2001.

SUBCHAPTER VII—EDUCATION DEBT REDUCTION PROGRAM

§ 7681. Authority for program

(a) IN GENERAL.—(1) As part of the Educational Assistance Program, the Secretary may carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Education Debt Reduction Program (hereinafter in this subchapter referred to as the ''Education Debt Reduction Program'').

(2) The purpose of the Education Debt Reduction Program is to assist in the recruitment of qualified health care professionals for positions in the Veterans Health Administration for which recruitment or retention of an adequate supply of qualified personnel is difficult.

(b) RELATIONSHIP TO EDUCATIONAL ASSISTANCE PROGRAM.—Education debt reduction payments under the Education Debt Reduction Program may be in addition to other assistance available to individuals under the Educational Assistance Program.

(Added Pub. L. 105–368, title VIII, § 803(a), Nov. 11, 1998, 112 Stat. 3357; amended Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

§ 7682. Eligibility

(a) ELIGIBILITY.—An individual is eligible to participate in the Education Debt Reduction Program if the individual—

(1) is a recently appointed employee in the Veterans Health Administration serving in a position (as determined by the Secretary) providing direct-patient care services or services incident to direct-patient care services for which recruitment or retention of qualified health-care personnel (as so determined) is difficult; and

(2) owes any amount of principal or interest under a loan, the proceeds of which were used by or on behalf of that individual to pay costs relating to a course of education or training which led to a degree that qualified the individual for the position referred to in paragraph (1).

(b) COVERED COSTS.—For purposes of subsection (a)(2), costs relating to a course of education or training include—

(1) tuition expenses;

(2) all other reasonable educational expenses, including expenses for fees, books, and laboratory expenses; and

(3) reasonable living expenses.

(c) RECENTLY APPOINTED INDIVIDUALS.—For purposes of subsection (a), an individual shall be considered to be recently appointed to a position if the individual has held that position for less than 6 months.

(Added Pub. L. 105–368, title VIII, § 803(a), Nov. 11, 1998, 112 Stat. 3357; amended Pub. L. 107–135, title I, § 102(b), Jan. 23, 2002, 115 Stat. 2448.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–135 substituted ''in a position (as determined by the Secretary) providing direct-patient care services or services incident to direct-patient care services'' for ''under an appointment under section 7402(b) of this title in a position'' and ''(as so determined)'' for ''(as determined by the Secretary)''.

TEMPORARY EXPANSION OF INDIVIDUALS ELIGIBLE FOR PARTICIPATION IN PROGRAM

Pub. L. 107–135, title I, § 102(e), Jan. 23, 2002, 115 Stat. 2449, provided that:

''(1) Notwithstanding section 7682(c) of title 38, United States Code, the Secretary of Veterans Affairs may treat a covered individual as being a recently appointed employee in the Veterans Health Administration under section 7682(a) of that title for purposes of eligibility in the Education Debt Reduction Program if the Secretary determines that the participation of the individual in the Program under this subsection would further the purposes of the Program.

''(2) For purposes of this subsection, a covered individual is any individual otherwise described by section 7682(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Jan. 23, 2002], who—

''(A) was appointed as an employee in a position described in paragraph (1) of that section, as so in effect, between January 1, 1999, and December 31, 2001; and

''(B) is an employee in such position, or in another position described in paragraph (1) of that section, as so in effect, at the time of application for treatment as a covered individual under this subsection.

''(3) The Secretary shall make determinations regarding the exercise of the authority in this subsection on a case-by-case basis.

''(4) The Secretary may not exercise the authority in this subsection after June 30, 2002. The expiration of the authority in this subsection shall not affect the treatment of an individual under this subsection before that date as a covered individual for purposes of eligibility in the Education Debt Reduction Program.

''(5) In this subsection, the term 'Education Debt Reduction Program' means the Department of Veterans Affairs Education Debt Reduction Program under subchapter VII of chapter 76 of title 38, United States Code.''

§ 7683. Education debt reduction

(a) IN GENERAL.—Education debt reduction payments under the Education Debt Reduction

Program shall consist of payments to individuals selected to participate in the program of amounts to reimburse such individuals for payments by such individuals of principal and interest on loans described in section 7682(a)(2) of this title.

(b) FREQUENCY OF PAYMENT.—(1) The Secretary may make education debt reduction payments to any given participant in the Education Debt Reduction Program on a monthly or annual basis, as determined by the Secretary.

(2) The Secretary shall make such payments at the end of the period determined by the Secretary under paragraph (1).

(c) PERFORMANCE REQUIREMENT.—The Secretary may make education debt reduction payments to a participant in the Education Debt Reduction Program for a period only if the Secretary determines that the individual maintained an acceptable level of performance in the position or positions served by the participant during the period.

(d) MAXIMUM ANNUAL AMOUNT.—(1) Subject to paragraph (2), the amount of education debt reduction payments made to a participant under the Education Debt Reduction Program may not exceed $44,000 over a total of five years of participation in the Program, of which not more than $10,000 of such payments may be made in each of the fourth and fifth years of participation in the Program.

(2) The total amount payable to a participant in such Program for any year may not exceed the amount of the principal and interest on loans referred to in subsection (a) that is paid by the individual during such year.

(Added Pub. L. 105–368, title VIII, § 803(a), Nov. 11, 1998, 112 Stat. 3357; amended Pub. L. 107–135, title I, § 102(c), Jan. 23, 2002, 115 Stat. 2448.)

AMENDMENTS

2002—Subsec. (d)(1). Pub. L. 107–135 struck out ''for a year'' after ''a participant'' and substituted ''exceed $44,000 over a total of five years of participation in the Program, of which not more than $10,000 of such payments may be made in each of the fourth and fifth years of participation in the Program'' for ''exceed—

''(A) $6,000 for the first year of the participant's participation in the Program;

''(B) $8,000 for the second year of the participant's participation in the Program; and

''(C) $10,000 for the third year of the participant's participation in the Program''.

[§ 7684. Repealed. Pub. L. 107–135, title I, § 102(a)(1), Jan. 23, 2002, 115 Stat. 2448]

Section, added Pub. L. 105–368, title VIII, § 803(a), Nov. 11, 1998, 112 Stat. 3358, provided that the Secretary could not make education debt reduction payments to individuals who had not commenced participation in the Education Debt Reduction Program before Dec. 31, 2001.

CHAPTER 77—VETERANS BENEFITS ADMINISTRATION

SUBCHAPTER I—ORGANIZATION; GENERAL

Sec.
7701. Organization of the Administration.
7703. Functions of the Administration.

SUBCHAPTER II—VETERANS OUTREACH SERVICES PROGRAM

7721. Purpose; definitions.
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7723. Veterans assistance offices.
7724. Outstationing of counseling and outreach personnel.
7725. Use of other agencies.
7726. Annual report to Congress.
7727. Outreach for eligible dependents.

SUBCHAPTER III—QUALITY ASSURANCE

7731. Establishment.
7732. Functions.
7733. Personnel.
7734. Annual report to Congress.

AMENDMENTS

2001—Pub. L. 107–14, § 6(b)(2), June 5, 2001, 115 Stat. 31, added item 7727.

1999—Pub. L. 106–117, title VIII, § 801(a)(2), Nov. 30, 1999, 113 Stat. 1586, added heading for subchapter III and items 7731 to 7734.

SUBCHAPTER I—ORGANIZATION; GENERAL

§ 7701. Organization of the Administration

(a) There is in the Department of Veterans Affairs a Veterans Benefits Administration. The primary function of the Veterans Benefits Administration is the administration of nonmedical benefits programs of the Department which provide assistance to veterans and their dependents and survivors.

(b) The Veterans Benefits Administration is under the Under Secretary for Benefits, who is directly responsible to the Secretary for the operations of the Administration. The Under Secretary for Benefits may be referred to as the Chief Benefits Director.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 399; amended Pub. L. 102–405, title III, § 302(c)(1), (3), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–405 substituted ''Under Secretary for Benefits'' for ''Chief Benefits Director'' and inserted at end ''The Under Secretary for Benefits may be referred to as the Chief Benefits Director.''

§ 7703. Functions of the Administration

The Veterans Benefits Administration is responsible for the administration of the following programs of the Department:

(1) Compensation and pension programs.

(2) Vocational rehabilitation and educational assistance programs.

(3) Veterans' housing loan programs.

(4) Veterans' and servicemembers' life insurance programs.

(5) Outreach programs and other veterans' services programs.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 399.)

SUBCHAPTER II—VETERANS OUTREACH SERVICES PROGRAM

§ 7721. Purpose; definitions

(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of ensuring that all veterans (especially those who have been recently discharged or released from active military, naval,

or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Department) are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Department with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

(b) For the purposes of this subchapter—

(1) the term ''other governmental programs'' includes all programs under State or local laws as well as all programs under Federal law other than those authorized by this title; and

(2) the term ''eligible dependent'' means a spouse, surviving spouse, child, or dependent parent of a person who served in the active military, naval, or air service.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 400; amended Pub. L. 107–14, § 6(a), June 5, 2001, 115 Stat. 30.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 240 of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2001—Subsec. (b)(2). Pub. L. 107–14 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''the term 'eligible dependent' means an 'eligible person' as defined in section 3501(a)(1) of this title.''

REPORTS ON ACTIVITIES OF DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS

Pub. L. 103–446, title X, § 1001(a), (b), Nov. 2, 1994, 108 Stat. 4678, 4679, as amended by Pub. L. 105–114, title II, § 204, Nov. 21, 1997, 111 Stat. 2288; Pub. L. 107–103, title V, § 509(e), Dec. 27, 2001, 115 Stat. 997, directed in subsec. (a) that the Secretary of Veterans Affairs submit to Congress an annual report of activities of Department of Veterans Affairs to assist homeless veterans. Subsec. (a) was repealed and restated in section 2065 of this title by Pub. L. 107–95, § 5(a)(1), (e)(2), Dec. 21, 2001, 115 Stat. 914, 918. Subsec. (b) was previously repealed by Pub. L. 105–114, title II, § 204(2), Nov. 21, 1997, 111 Stat. 2288.

HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS

Pub. L. 102–590, §§ 2–4, Nov. 10, 1992, 106 Stat. 5136–5139, as amended by Pub. L. 103–446, title X, § 1003, Nov. 2, 1994, 108 Stat. 4679; Pub. L. 104–110, title I, § 102(c)(1), (2), Feb. 13, 1996, 110 Stat. 769; Pub. L. 105–114, title II, §§ 202(c)(3), 203(b), Nov. 21, 1997, 111 Stat. 2287, 2288; Pub. L. 106–117, title IX, § 903(1)–(3), Nov. 30, 1999, 113 Stat. 1587; Pub. L. 107–14, § 8(c), June 5, 2001, 115 Stat. 36, which provided for a grant program to assist eligible entities in establishing new programs to furnish, and expanding existing programs for furnishing, outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans and per diem payments to grant recipients for furnishing services to homeless veterans, was repealed and restated in sections 2011 and 2012 of this title by Pub. L. 107–95, § 5(a)(1), (e)(1), Dec. 21, 2001, 115 Stat. 906, 918.

ANNUAL REPORTS TO CONGRESSIONAL COMMITTEES

Pub. L. 102–590, § 10, Nov. 10, 1992, 106 Stat. 5141, directed Secretary of Veterans Affairs, not later than May 1 of each of 1994, 1995, and 1996, to submit to Committees on Veterans' Affairs of Senate and House of Representatives a report on implementation of Pub. L. 102–590, including information on (1) number of veterans assisted, (2) services provided, and (3) Secretary's analysis of operational and clinical effectiveness and cost-effectiveness of programs established under, or with assistance provided by, Pub. L. 102–590, prior to repeal by Pub. L. 103–446, title X, § 1001(c), Nov. 2, 1994, 108 Stat. 4679.

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 102–590, § 12, Nov. 10, 1992, 106 Stat. 5142, as amended by Pub. L. 103–446, title X, § 1004, Nov. 2, 1994, 108 Stat. 4679; Pub. L. 104–110, title I, § 102(c)(3), Feb. 13, 1996, 110 Stat. 769; Pub. L. 106–117, title IX, § 903(4), Nov. 30, 1999, 113 Stat. 1587, which authorized appropriations for fiscal years 1993 through 1997 and 2000 and 2001, was repealed by Pub. L. 107–95, § 5(e)(1), Dec. 21, 2001, 115 Stat. 918.

§ 7722. Outreach services

(a) In carrying out the purposes of this subchapter, the Secretary shall provide the outreach services specified in subsections (b) through (d). In areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, such services shall, to the maximum feasible extent, be provided in the principal language of such persons.

(b) The Secretary shall by letter advise each veteran at the time of the veteran's discharge or release from active military, naval, or air service (or as soon as possible after such discharge or release) of all benefits and services under laws administered by the Department for which the veteran may be eligible. In carrying out this subsection, the Secretary shall ensure, through the use of veteran-student services under section 3485 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release.

(c)(1) The Secretary shall distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Department and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which the Secretary determines would be beneficial to veterans.

(2) Whenever a veteran or dependent first applies for any benefit under laws administered by the Secretary (including a request for burial or related benefits or an application for life insurance proceeds), the Secretary shall provide to the veteran or dependent information concerning benefits and health care services under programs administered by the Secretary. Such information shall be provided not later than three months after the date of such application.

(d) The Secretary shall provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents with respect to subsections (b) and (c) and in the preparation and presentation of claims under laws administered by the Department.

(e) In carrying out this section, the Secretary shall assign such employees of the Veterans

Benefits Administration as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veterans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 400; amended Pub. L. 102–590, § 5, Nov. 10, 1992, 106 Stat. 5139; Pub. L. 107–103, title III, § 304, Dec. 27, 2001, 115 Stat. 992.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 241 of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2001—Subsec. (c). Pub. L. 107–103 designated existing provisions as par. (1) and added par. (2).

1992—Subsec. (e). Pub. L. 102–590 added subsec. (e).

INFORMATION TO ASSIST VETERANS RECEIVING EDUCATION BENEFITS

Pub. L. 101–237, title IV, § 421, Dec. 18, 1989, 103 Stat. 2088, provided that:

''(a) IN GENERAL.—For the purpose of assisting individuals receiving education benefits from the Department of Veterans Affairs, the Secretary of Veterans Affairs shall prepare, and update periodically, a document containing a detailed description of the benefits, limitations, procedures, requirements, and other important aspects of the education programs administered by the Department.

''(b) DISTRIBUTION.—The Secretary shall, beginning in fiscal year 1990 but not before July 1, 1990, distribute copies of such document—

''(1) to each individual applying for benefits under an education program administered by the Department of Veterans Affairs and to each such individual at least annually in the years thereafter in which the individual receives such benefits;

''(2) to education and training institution officials on at least an annual basis; and

''(3) upon request, to other individuals significantly affected by education programs administered by the Secretary, including military education personnel.

''(c) FUNDING.—The Secretary shall use funds appropriated to the readjustment benefits account of the Department to carry out this section.''

OUTREACH SERVICES

Pub. L. 100–687, div. B, title XII, § 1204, Nov. 18, 1988, 102 Stat. 4125, as amended by Pub. L. 102–4, § 4, Feb. 6, 1991, 105 Stat. 15; Pub. L. 102–83, § 6(k)(2), Aug. 6, 1991, 105 Stat. 409, provided that:

''(a) ONGOING OUTREACH PROGRAM.—(1) The Secretary of Veterans Affairs shall conduct an active, continuous outreach program for furnishing to veterans of active military, naval, or air service who served in the Republic of Vietnam during the Vietnam era information relating to—

''(A) the health risks (if any) resulting from exposure during that service to dioxin or any other toxic agent in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

''(B) services and benefits available to such veterans with respect to such health risks.

''(2) The Secretary of Veterans Affairs shall annually furnish updated information on health risks described in paragraph (1)(A) to veterans referred to in paragraph (1).

''(b) INFORMATION IN AGENT ORANGE REGISTRY.—The Secretary of Veterans Affairs shall take reasonable actions to organize and update the information contained in the Department of Veterans Affairs Agent Orange Registry in a manner that enables the Secretary promptly to notify a veteran of any increased health risk for such veteran resulting from exposure of such veteran to dioxin or any other toxic agent referred to in subsection (a) during Vietnam-era service in the Republic of Vietnam whenever the Secretary determines, on the basis of physical examination or other pertinent information, that such veteran is subject to such an increased health risk.''

§ 7723. Veterans assistance offices

(a) The Secretary shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and in the Commonwealth of Puerto Rico, as the Secretary determines to be necessary to carry out the purposes of this subchapter. The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense and taking into account recommendations, if any, of the Secretary of Labor, determines to be necessary to carry out such purposes. In establishing and maintaining such offices, the Secretary shall give due regard to—

(1) the geographical distribution of veterans recently discharged or released from active military, naval, or air service;

(2) the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services); and

(3) the necessity of providing appropriate outreach services in less populated areas.

(b) The Secretary shall establish and carry out all possible programs and services, including special telephone facilities, as may be necessary to make the outreach services provided for under this subchapter as widely available as possible.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 401; amended Pub. L. 107–103, title III, § 301, Dec. 27, 2001, 115 Stat. 991; Pub. L. 108–183, title III, § 309(c)(1), Dec. 16, 2003, 117 Stat. 2663.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 242 of this title prior to repeal by Pub. L. 102–83, § 2(a).

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 inserted ''and taking into account recommendations, if any, of the Secretary of Labor'' after ''Secretary of Defense'' in second sentence of introductory provisions.

2001—Subsec. (a). Pub. L. 107–103 inserted after first sentence ''The Secretary may maintain such offices on such military installations located elsewhere as the Secretary, after consultation with the Secretary of Defense, determines to be necessary to carry out such purposes.''

EFFECTIVE DATE OF 2003 AMENDMENTS

Pub. L. 108–183, title III, § 309(c)(2), Dec. 16, 2003, 117 Stat. 2663, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to offices established after the date of the enactment of this Act [Dec. 16, 2003].''

§ 7724. Outstationing of counseling and outreach personnel

The Secretary may station employees of the Department at locations other than Department

offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 401.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 243 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 7725. Use of other agencies

In carrying out this subchapter, the Secretary shall do the following:

(1) Arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, including, where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Department.

(2) In consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment opportunities, training opportunities, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

(3) Cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization.

(4) Where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization.

(5) At the Secretary of Veterans Affairs discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services.

(6) Conduct and provide for studies in consultation with appropriate Federal departments and agencies to determine the most effective program design to carry out the purposes of this subchapter.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 401.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 244 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 7726. Annual report to Congress

The Secretary shall include in the annual report to the Congress required by section 529 of this title a report on the activities carried out under this subchapter. Each such report shall include an appraisal of the effectiveness of the programs authorized in this subchapter and recommendations for the improvement or more effective administration of those programs.

(Added Pub. L. 102–83, § 2(b), Aug. 6, 1991, 105 Stat. 402.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 245 of this title prior to repeal by Pub. L. 102–83, § 2(a).

§ 7727. Outreach for eligible dependents

(a) In carrying out this subchapter, the Secretary shall ensure that the needs of eligible dependents are fully addressed.

(b) The Secretary shall ensure that the availability of outreach services and assistance for eligible dependents under this subchapter is made known through a variety of means, including the Internet, announcements in veterans publications, and announcements to the media.

(Added Pub. L. 107–14, § 6(b)(1), June 5, 2001, 115 Stat. 31.)

SUBCHAPTER III—QUALITY ASSURANCE

§ 7731. Establishment

(a) The Secretary shall carry out a quality assurance program in the Veterans Benefits Administration. The program may be carried out through a single quality assurance division in the Administration or through separate quality assurance entities for each of the principal organizational elements (known as ''services'') of the Administration.

(b) The Secretary shall ensure that any quality assurance entity established and operated under subsection (a) is established and operated so as to meet generally applicable governmental standards for independence and internal controls for the performance of quality reviews of Government performance and results.

(Added Pub. L. 106–117, § 801(a)(1), Nov. 30, 1999, 113 Stat. 1585.)

EFFECTIVE DATE

Pub. L. 106–117, title VIII, § 801(b), Nov. 30, 1999, 113 Stat. 1586, provided that: ''Subchapter III of chapter 77 of title 38, United States Code, as added by subsection (a), shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 30, 1999].''

§ 7732. Functions

The Under Secretary for Benefits, acting through the quality assurance entities established under section 7731(a), shall on an ongoing basis perform and oversee quality reviews of the functions of each of the principal organizational elements of the Veterans Benefits Administration.

(Added Pub. L. 106–117, § 801(a)(1), Nov. 30, 1999, 113 Stat. 1585.)

§ 7733. Personnel

The Secretary shall ensure that the number of full-time employees of the Veterans Benefits Administration assigned to quality assurance functions under this subchapter is adequate to perform the quality assurance functions for which they have responsibility.

(Added Pub. L. 106–117, § 801(a)(1), Nov. 30, 1999, 113 Stat. 1585.)

§ 7734. Annual report to Congress

The Secretary shall include in the annual report to the Congress required by section 529 of this title a report on the quality assurance activities carried out under this subchapter. Each such report shall include—

(1) an appraisal of the quality of services provided by the Veterans Benefits Administration, including—

(A) the number of decisions reviewed;

(B) a summary of the findings on the decisions reviewed;

(C) the number of full-time equivalent employees assigned to quality assurance in each division or entity;

(D) specific documentation of compliance with the standards for independence and internal control required by section 7731(b) of this title; and

(E) actions taken to improve the quality of services provided and the results obtained;

(2) information with respect to the accuracy of decisions, including trends in that information; and

(3) such other information as the Secretary considers appropriate.

(Added Pub. L. 106–117, § 801(a)(1), Nov. 30, 1999, 113 Stat. 1585.)

CHAPTER 78—VETERANS' CANTEEN SERVICE

Sec.
7801. Purpose of Veterans' Canteen Service.
7802. Duties of Secretary with respect to Service.
7803. Operation of Service.
7804. Financing of Service.
7805. Revolving fund.
7806. Budget of Service.
7807. Audit of accounts.
7808. Service to be independent unit.
7809. Child-care centers.
7810. Exemption from personnel ceilings.

AMENDMENTS

1991—Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405, substituted ''Secretary'' for ''Administrator'' in item 7802.

Pub. L. 102–40, title IV, § 402(a), (c)(1), May 7, 1991, 105 Stat. 238, 239, redesignated chapter 75 of this title as this chapter and renumbered items 4201 to 4210 as 7801 to 7810, respectively.

1988—Pub. L. 100–322, title IV, §§ 412(b), 414(b)(2), May 20, 1988, 102 Stat. 548, 549, added items 4209 and 4210.

§ 7801. Purpose of Veterans' Canteen Service

The Veterans' Canteen Service (hereinafter in this chapter referred to as the ''Service'') in the Department is an instrumentality of the United States, created for the primary purpose of making available to veterans of the Armed Forces who are hospitalized or domiciled in hospitals and homes of the Department, at reasonable prices, articles of merchandise and services essential to their comfort and well-being.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1248, § 4201; renumbered § 7801 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

1991—Pub. L. 102–40 renumbered section 4201 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' in two places.

§ 7802. Duties of Secretary with respect to Service

(a) LOCATIONS FOR CANTEENS.—The Secretary shall establish, maintain, and operate canteens where deemed necessary and practicable at hospitals and homes of the Department and at other Department establishments where similar essential facilities are not reasonably available from outside commercial sources.

(b) WAREHOUSES AND STORAGE DEPOTS.—The Secretary shall establish, maintain, and operate such warehouses and storage depots as may be necessary in operating the canteens.

(c) SPACE, BUILDINGS, AND STRUCTURES.—The Secretary shall furnish the Service for its use in connection with the establishment, maintenance, and operation thereof, such space, buildings, and structures under control of the Department as the Secretary may consider necessary, including normal maintenance and repair service thereon. Reasonable charges, to be determined by the Secretary, shall be paid annually by the Service for the space, buildings, and structures so furnished, except that the Secretary may reduce or waive such charges whenever payment of such charges would impair the working capital required by the Service.

(d) EQUIPMENT, SERVICES, AND UTILITIES.—The Secretary shall transfer to the Service without charge, rental, or reimbursement such necessary equipment as may not be needed for other purposes, and furnish the Service such services and utilities, including light, water, and heat, as may be available and necessary for its use. Reasonable charges, to be determined by the Secretary, shall be paid annually by the Service for the utilities so furnished.

(e) PERSONNEL.—The Secretary shall employ such persons as are necessary for the establishment, maintenance, and operation of the Service, and pay the salaries, wages, and expenses of all such employees from the funds of the Service. Personnel necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots shall be appointed, compensated from funds of the Service, and removed by the Secretary without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5. Those employees are subject to the provisions of title 5 relating to a preference eligible described in section 2108(3) of title 5, subchapter I of chapter 81 of title 5, and subchapter III of chapter 83 of title 5. An employee appointed under this section may be considered for appointment to a Department position in the competitive service in the same manner that a Department employee in the competitive service is considered for transfer to such position. An employee of the Service who is appointed to a Department position in the competitive service under the authority of the preceding sentence may count toward the time-in-service requirement for a career appointment in such position any previous period of employment in the Service.

(f) CONTRACTS AND AGREEMENTS.—The Secretary shall make all necessary contracts or agreements to purchase or sell merchandise, fixtures, equipment, supplies, and services, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) and to do all things necessary to carry out such contracts or agreements, including the making of necessary adjustments and compromising of claims in connection therewith.

(g) PRICES.—The Secretary shall fix the prices of merchandise and services in canteens so as to carry out the purposes of this chapter.

(h) GIFTS AND DONATIONS.—The Secretary may accept gifts and donations of merchandise, fixtures, equipment, and supplies for the use and benefit of the Service.

(i) RULES AND REGULATIONS.—The Secretary shall make such rules and regulations, not inconsistent with the provisions of this chapter, as the Secretary considers necessary or appropriate to effectuate its purposes.

(j) DELEGATION.—The Secretary may delegate such duties and powers to employees as the Secretary considers necessary or appropriate, whose official acts performed within the scope of the delegated authority shall have the same force and effect as though performed by the Secretary.

(k) AUTHORITY TO CASH CHECKS, ETC.—The Secretary may authorize the use of funds of the Service when available, subject to such regulations as the Secretary may deem appropriate, for the purpose of cashing checks, money orders, and similar instruments in nominal amounts for the payment of money presented by veterans hospitalized or domiciled at hospitals and homes of the Department, and by other persons authorized by section 7803 of this title to make purchases at canteens. Such checks, money orders, and other similar instruments may be cashed outright or may be accepted, subject to strict administrative controls, in payment for merchandise or services, and the difference between the amount of the purchase and the amount of the tendered instrument refunded in cash.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1248, § 4202; Pub. L. 86–109, § 1, July 28, 1959, 73 Stat. 258; Pub. L. 94–581, title II, § 210(d), Oct. 21, 1976, 90 Stat. 2864; Pub. L. 97–295, § 4(88), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 99–576, title VII, § 702(13), Oct. 28, 1986, 100 Stat. 3302; renumbered § 7802 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(e)(7), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 108–170, title III, § 304, Dec. 6, 2003, 117 Stat. 2058.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in par. (5), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

AMENDMENTS

2003—Pub. L. 108–170 struck out introductory provisions which read ''The Secretary shall—'', substituted period for semicolon at end of pars. (1) to (10), inserted last two sentences in par. (5), redesignated pars. (1) to (11) as subsecs. (a) to (k), respectively, and realigned margins, inserted headings in subsecs. (a) to (k), and inserted ''The Secretary shall'' after heading in subsecs. (a) to (g) and (i) and ''The Secretary may'' after heading in subsecs. (h), (j), and (k).

1991—Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in section catchline and in introductory provisions.

Pub. L. 102–40, § 402(a), (b)(1), renumbered section 4202 of this title as this section.

Par. (1). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Par. (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pars. (4), (5). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Par. (6). Pub. L. 102–54 amended par. (6) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''section 3709 of the Revised Statutes (41 U.S.C. 5)'' for ''section 5 of title 41''.

Pars. (9), (10). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Par. (11). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–40, § 402(d)(1), substituted ''7803'' for ''4203''.

1986—Par. (11). Pub. L. 99–576 struck out ''and without regard to the provisions of section 1 of the Act of January 31, 1925 (7 U.S.C. 2217), and section 1 (1st proviso under heading 'OFFICE OF THE SECRETARY') of the Act of May 11, 1922 (7 U.S.C. 2240),'' after ''as the Administrator may deem appropriate,''.

1982—Par. (5). Pub. L. 97–295, § 4(88)(A), substituted reference to provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5 for reference to the civil-service laws and the Classification Act of 1949, and substituted provision that the relevant employees are subject to the provisions of title 5 relating to a preference eligible described in section 2108(3) of title 5, subchapter I of chapter 81 of title 5, and subchapter III of chapter 83 of title 5 for provision that such employees were subject to the Veterans' Preference Act of 1944, the Civil Service Retirement Act, and laws administered by the Bureau of Employees' Compensation applicable to civilian employees of the United States.

Par. (11). Pub. L. 97–295, § 4(88)(B), substituted ''section 1 of the Act of January 31, 1925 (7 U.S.C. 2217), and section 1 (1st proviso under heading 'OFFICE OF THE SECRETARY') of the Act of May 11, 1922 (7 U.S.C. 2240)'' for ''sections 521 and 543 of title 5''.

1976—Pars. (3), (9), (10), (11). Pub. L. 94–581 substituted ''the Administrator'' for ''he'' in pars. (3), (9), (10), and (11).

1959—Par. (3). Pub. L. 86–109 required the Service to pay reasonable charges, as determined by the Administrator, for the use of space, buildings, and structures furnished by the Veterans' Administration and authorized reduction of waiver of the charges when payment thereof would impair the working capital required by the Service.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86–109 provided that: ''This Act [amending this section] shall take effect on the first day of July 1959.''

§ 7803. Operation of Service

(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—

(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and

(2) other veterans who are enrolled under section 1705 of this title.

(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—

(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;

(2) the families of persons referred to in paragraph (1) who reside at the facility; and

(3) relatives and other persons while visiting a person specified in this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1249, § 4203; renumbered § 7803 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404; Pub. L. 106–117, title III, § 302, Nov. 30, 1999, 113 Stat. 1572; Pub. L. 108–422, title VI, § 603, Nov. 30, 2004, 118 Stat. 2397.)

AMENDMENTS

2004—Pub. L. 108–422 amended text of section generally. Prior to amendment, text read as follows: ''The canteens at hospitals and homes of the Department shall be primarily for the use and benefit of veterans hospitalized or domiciled at such hospitals and homes. Service at such canteens may also be furnished to personnel of the Department and recognized veterans' organizations employed at such hospitals and homes and to other persons so employed, to the families of all the foregoing persons who reside at the hospital or home concerned, and to relatives and other persons while visiting any of the persons named in this section.''

1999—Pub. L. 106–117 struck out subsec. (a) designation and substituted ''in this section'' for ''in this subsection; however, service to any person not hospitalized, domiciled, or residing at the hospital or home shall be limited to the sale of merchandise or services for consumption or use on the premises'' and struck out subsec. (b) which read as follows: ''Service at canteens other than those established at hospitals and homes shall be limited to sales of merchandise and services for consumption or use on the premises, to personnel employed at such establishments, their visitors, and other persons at such establishments on official business.''

1991—Pub. L. 102–40 renumbered section 4203 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' in two places.

§ 7804. Financing of Service

To finance the establishment, maintenance, and operation of the Service there is hereby authorized to be appropriated, from time to time, such amounts as are necessary to provide for (1) the acquisition of necessary furniture, furnishings, fixtures, and equipment for the establishment, maintenance, and operation of canteens, warehouses, and storage depots; (2) stocks of merchandise and supplies for canteens and reserve stocks of same in warehouses and storage depots; (3) salaries, wages, and expenses of all employees; (4) administrative and operation expenses; and (5) adequate working capital for each canteen and for the Service as a whole. Amounts appropriated under the authority contained in this chapter and all income from canteen operations become and will be administered as a revolving fund to effectuate the provisions of this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250, § 4204; Pub. L. 92–310, title II, § 209, June 6, 1972, 86 Stat. 204; Pub. L. 99–576, title VII, § 702(14), Oct. 28, 1986, 100 Stat. 3302; renumbered § 7804 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4204 of this title as this section.

1986—Pub. L. 99–576 struck out '', amounts heretofore appropriated to carry out Public Law 636, Seventy-ninth Congress,'' before ''and all income''.

1972—Pub. L. 92–310 struck out ''and premiums on fidelity bonds of employees'' in cl. (4).

§ 7805. Revolving fund

The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Secretary may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts or other interest-bearing accounts in other depositaries selected by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250, § 4205; Pub. L. 100–322, title IV, § 414(a)(1), May 20, 1988, 102 Stat. 549; renumbered § 7805 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4205 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places.

1988—Pub. L. 100–322 inserted ''or other interest-bearing accounts'' after ''checking accounts''.

§ 7806. Budget of Service

The Service shall prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, which shall contain an estimate of the needs of the Service for the ensuing fiscal year including an estimate of the amount required to restore any impairment of the revolving fund resulting from operations of the current fiscal year.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250, § 4206; Pub. L. 97–258, § 3(k)(8), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 100–322, title IV, § 414(a)(2), May 20, 1988, 102 Stat. 549; renumbered § 7806 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4206 of this title as this section.

1988—Pub. L. 100–322 struck out at end ''Any balance in the revolving fund at the close of the fiscal year in excess of the estimated requirements for the ensuing fiscal year shall be covered into the Treasury as miscellaneous receipts.''

1982—Pub. L. 97–258 substituted ''corporations by chapter 91 of title 31,'' for ''corporations by sections 841–869 of title 31,''.

§ 7807. Audit of accounts

The Service shall maintain a set of accounts which shall be audited by the Comptroller Gen-

eral in accordance with the provisions of chapter 35 of title 31.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250, § 4207; Pub. L. 93–604, title VII, § 704, Jan. 2, 1975, 88 Stat. 1964; Pub. L. 97–295, § 4(89), Oct. 12, 1982, 96 Stat. 1312; Pub. L. 97–452, § 2(e)(3), Jan. 12, 1983, 96 Stat. 2479; renumbered § 7807 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4207 of this title as this section.

1983—Pub. L. 97–452 substituted ''chapter 35 of title 31'' for ''section 3523 of title 31''.

1982—Pub. L. 97–295 substituted ''section 3523 of title 31'' for ''the Accounting and Auditing Act of 1950''.

1975—Pub. L. 93–604 substituted provisions that the Service maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950 for provisions that the Service maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by sections 841–869 of Title 31 and that no other audit shall be required.

§ 7808. Service to be independent unit

It is the purpose of this chapter that, under control and supervision of the Secretary, the Service shall function as an independent unit in the Department and shall have exclusive control over all its activities including sales, procurement and supply, finance, including disbursements, and personnel management, except as otherwise provided in this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1250, § 4208; Pub. L. 97–295, § 4(90), Oct. 12, 1982, 96 Stat. 1312; renumbered § 7808 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 4208 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

1982—Pub. L. 97–295 substituted ''provided in this chapter'' for ''herein provided''.

§ 7809. Child-care centers

(a)(1) The Secretary, through the Service, shall provide for the operation of child-care centers at Department facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Secretary determines, based on the demand for the care involved, that such operation is in the best interest of the Department and that is practicable to do so. The centers shall be available for the children of Department employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 7361 of this title.

(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child-care services under the authority of this section.

(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Secretary. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

(c) In connection with the establishment and operation of any child-care center under this section, the Secretary—

(1) shall furnish, at no cost to the center, space in existing Department facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Secretary) for the health and safety of the children provided care at the center;

(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child-care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Secretary may furnish basic telephone service and surplus furniture and equipment without reimbursement;

(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

(d) The Secretary shall prescribe regulations to carry out this section.

(e) For the purpose of this section, the term ''parent advisory committee'' means a committee comprised of, and selected by, the parents of children receiving care in a child-care center operated under this section.

(Added Pub. L. 100–322, title IV, § 412(a), May 20, 1988, 102 Stat. 547, § 4209; renumbered § 7809 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(e)(8), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(a), (b)(1), renumbered section 4209 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–54 amended subsec. (a)(1) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''child-care'' for ''child care''.

Pub. L. 102–40, § 402(d)(1), substituted ''7361'' for ''4161''.

Subsec. (a)(2). Pub. L. 102–54 amended subsec. (a)(2) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''child-care'' for ''child care''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and in pars. (1) and (2).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in par. (1).

Pub. L. 102–54 amended subsec. (c) as in effect before the enactment of Pub. L. 102–40 by substituting ''child-care'' for ''child care'' in introductory provisions and in par. (2).

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e). Pub. L. 102–54 amended subsec. (e) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''child-care'' for ''child care''.

§ 7810. Exemption from personnel ceilings

Persons who are employed by the Service and compensated from the revolving fund established by section 7804 of this title may not be considered to be employees of the Department for the purposes of any personnel ceiling which may otherwise be applied to employees of the Department by the President or an official of the executive branch.

(Added Pub. L. 100–322, title IV, § 414(b)(1), May 20, 1988, 102 Stat. 549, § 4210; renumbered § 7810 and amended Pub. L. 102–40, title IV, § 402(a), (b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(a), (b)(1), renumbered section 4210 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' in two places.

Pub. L. 102–40, § 402(d)(1), substituted ''7804'' for ''4204''.

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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85.	Disposition of Deceased Veterans' Personal Property	8501

AMENDMENTS

1991—Pub. L. 102–86, title IV, § 401(b)(2), Aug. 14, 1991, 105 Stat. 422, inserted ''; Enhanced-Use Leases of Real Property'' in item for chapter 81.

Pub. L. 102–40, title IV, § 402(c)(2), May 7, 1991, 105 Stat. 239, substituted ''8101'' for ''5001'' in item for chapter 81, ''8201'' for ''5070'' in item for chapter 82, ''8301'' for ''5101'' in item for chapter 83, and ''8501'' for ''5201'' in item for chapter 85.

1972—Pub. L. 92–541, § 2(b), Oct. 24, 1972, 86 Stat. 1107, added item for chapter 82.

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY; ENHANCED-USE LEASES OF REAL PROPERTY

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AMENDMENT OF ANALYSIS

Pub. L. 108–422, title IV, § 411(c)(2), (f), Nov. 30, 2004, 118 Stat. 2389, 2390, provided that, effective at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with section 1710B(b) of this title, this analysis is amended by striking out item 8116.

AMENDMENTS

2004—Pub. L. 108–422, title IV, § 411(a)(2), Nov. 30, 2004, 118 Stat. 2389, added item 8118.

2003—Pub. L. 108–170, title II, § 202(d)(2), Dec. 6, 2003, 117 Stat. 2048, substituted ''Hearing and notice requirements regarding proposed leases'' for ''Designation of property to be leased'' in item 8163.

2002—Pub. L. 107–314, div. A, title VII, § 721(a)(2), Dec. 2, 2002, 116 Stat. 2595, substituted ''Sharing of Department of Veterans Affairs and Department of Defense health care resources'' for ''Sharing of Department and Department of Defense health-care resources'' in item 8111.

Pub. L. 107–287, § 6(a)(2), Nov. 7, 2002, 116 Stat. 2032, added item 8117.

1997—Pub. L. 105–114, title II, § 205(b)(2), Nov. 21, 1997, 111 Stat. 2289, struck out item 8168 ''Limitation on number of agreements''.

1996—Pub. L. 104–262, title III, § 301(d)(2), Oct. 9, 1996, 110 Stat. 3193, substituted ''Sharing of health-care resources'' for ''Specialized medical resources'' in item 8153.

1994—Pub. L. 103–446, title XII, § 1201(h)(5), (6), Nov. 2, 1994, 108 Stat. 4688, inserted ''ENHANCED-USE'' before ''LEASES OF REAL'' in chapter heading and ''and certain other Federal agencies'' after ''Department'' in item 8126.

1992—Pub. L. 102–585, title VI, § 603(a)(2), Nov. 4, 1992, 106 Stat. 4975, added item 8126.

Pub. L. 102–405, title I, § 103(a)(2), Oct. 9, 1992, 106 Stat. 1975, added items 8157 and 8158.

1991—Pub. L. 102–86, title IV, § 401(b)(1), (3), Aug. 14, 1991, 105 Stat. 422, inserted ''; LEASES OF REAL PROPERTY'' in chapter heading and added analysis for subchapter V.

Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''Department and'' for ''Veterans' Administration and'' in item 8111.

Pub. L. 102–54, § 14(f)(1), June 13, 1991, 105 Stat. 287, amended the table of sections as in effect immediately before the enactment of Pub. L. 102–40 by transferring item 5016 so as to appear immediately after item 5015 and by substituting ''payments'' for ''Payments'' in item 5035.

Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 5001 to 5056 as 8101 to 8156, respectively.

1988—Pub. L. 100–322, title II, § 205(b), May 20, 1988, 102 Stat. 513, added at end item 5016.

Pub. L. 100–322, title IV, § 403(a)(2), May 20, 1988, 102 Stat. 545, added item 5025.

1986—Pub. L. 99–576, title II, §§ 223(a)(2), 231(c)(2)(B), Oct. 28, 1986, 100 Stat. 3261, 3264, substituted ''Parking facilities'' for ''Garages and parking facilities'' in item 5009 and struck out item 5057 ''Reports to Congress''.

1985—Pub. L. 99–166, title III, § 302(c)(2), Dec. 3, 1985, 99 Stat. 955, substituted ''Operational and construction plans for medical facilities'' for ''Reports to congressional committees'' in item 5007.

1982—Pub. L. 97–174, §§ 3(b)(2), 4(b), May 4, 1982, 96 Stat. 74, 75, substituted ''Sharing of Veterans' Administration and Department of Defense health-care resources'' for ''Use of Armed Forces facilities'' in item 5011, and added item 5011A.

1979—Pub. L. 96–22, title III, § 301(c), June 13, 1979, 93 Stat. 61, substituted ''ACQUISITION AND OPERATION OF MEDICAL FACILITIES'' for ''PROVISIONS RELATING TO HOSPITALS AND HOMES'' in heading for subchapter I, substituted ''Definitions'' for ''Hospital and domiciliary facilities'' in item 5001, ''Acquisition of medical facilities'' for ''Construction and repair of buildings'' in item 5002, ''Authority to construct and alter, and acquire sites for, medical facilities'' for ''Use of Armed Forces facilities'' in item 5003, ''Congressional approval of certain medical facility acquisitions'' for ''Garages and parking facilities'' in item 5004, ''Structural requirements'' for ''Acceptance of certain property'' in item 5005, ''Construction contracts'' for ''Property formerly owned by National Home for Disabled Volunteer Soldiers'' in item 5006, and ''Reports to congressional committees'' for ''Partial relinquishment of legislative jurisdiction'' in item 5007, added items 5008 to 5015, and redesignated former items 5011 to 5014 as 5021 to 5024, respectively.

1977—Pub. L. 95–62, § 4(c), July 5, 1977, 91 Stat. 263, substituted ''DOMICILIARY, NURSING HOME, AND HOSPITAL CARE'' for ''NURSING HOME CARE'' in heading for subchapter III.

1976—Pub. L. 94–581, title I, § 115(b), Oct. 21, 1976, 90 Stat. 2853, substituted ''health services development activities carried out under the National Health Planning and Resources Development Act of 1974'' for ''programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965'' in item 5056.

1973—Pub. L. 93–82, title III, § 302(3), Aug. 2, 1973, 87 Stat. 195, added item 5007.

1966—Pub. L. 89–785, title II, §§ 201(b), 202(c), 2, Nov. 7, 1966, 80 Stat. 1372, 1373, 1376, substituted ''Garages and parking facilities'' for ''Garages on hospital and domiciliary reservations'' in item 5004, inserted ''and to negotiate for common services'' in item 5012, and added heading for subchapter IV and items 5051 to 5056 and 5075.

1964—Pub. L. 88–450, § 4(b), Aug. 19, 1964, 78 Stat. 503, added heading for subchapter III and items 5031 to 5037.

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

§ 8101. Definitions

For the purposes of this subchapter:

(1) The term ''alter'', with respect to a medical facility, means to repair, remodel, improve, or extend such medical facility.

(2) The terms ''construct'' and ''alter'', with respect to a medical facility, include such engineering, architectural, legal, fiscal, and economic investigations and studies and such surveys, designs, plans, construction documents, specifications, procedures, and other similar actions as are necessary for the construction or alteration, as the case may be, of such medical facility and as are carried out after the completion of the advanced planning (including the development of project requirements and design development) for such facility.

(3) The term ''medical facility'' means any facility or part thereof which is, or will be, under the jurisdiction of the Secretary for the provision of health-care services (including hospital, nursing home, or domiciliary care or medical services), including any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, trackage facilities leading thereto, abutting sidewalks, accommoda-

tions for attending personnel, and recreation facilities associated therewith.

(4) The term ''committee'' means the Committee on Veterans' Affairs of the House of Representatives or the Committee on Veterans' Affairs of the Senate, and the term ''committees'' means both such committees.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 55, § 5001; renumbered § 8101, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 104–262, title II, § 207(a), Oct. 9, 1996, 110 Stat. 3190.)

AMENDMENTS

1996—Par. (2). Pub. L. 104–262 substituted ''construction documents'' for ''working drawings'' and ''design development'' for ''preliminary plans''.

1991—Pub. L. 102–40 renumbered section 5001 of this title as this section.

Par. (3). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE

Section 302 of Pub. L. 96–22 provided that:

''(a) Except as provided in subsection (b) of this section, the amendments made by section 301 [enacting this subchapter, redesignating sections 5011 to 5014 of this title as sections 5021 to 5024 [now 8121 to 8124], respectively, and amending section 5022 [now 8122] of this title as so redesignated] shall take effect on October 1, 1979.

''(b)(1) The amendments made by section 301 shall not apply with respect to the acquisition, construction, or alteration of any medical facility (as defined in section 5001(3) [now 8101(3)] of title 38, United States Code, as amended by section 301(a) of this Act) if such acquisition, construction, or alteration (not including exchange) was approved before October 1, 1979, by the President.

''(2) The provisions of section 5007(a) [now 8107(a)] of title 38, United States Code, as amended by section 301(a) of this Act, shall take effect on the date of the enactment of this Act [June 13, 1979].''

§ 8102. Acquisition of medical facilities

(a) The Secretary shall provide medical facilities for veterans entitled to hospital, nursing home, or domiciliary care or medical services under this title.

(b) No medical facility may be constructed or otherwise acquired or altered except in accordance with the provisions of this subchapter.

(c) In carrying out this subchapter, the Secretary—

(1) shall provide for the construction and acquisition of medical facilities in a manner that results in the equitable distribution of such facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility; and

(2) shall give due consideration to excellence of architecture and design.

(d) In considering the need for any project for the construction, alteration, or acquisition (other than by exchange) of a medical facility which is expected to involve a total expenditure of more than $2,000,000, the Secretary shall give consideration to the sharing of health-care resources with the Department of Defense under section 8111 of this title as an alternative to all or part of such project.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 55, § 5002; amended Pub. L. 99–576, title II, § 221(a), Oct. 28, 1986, 100 Stat. 3259; renumbered § 8102 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(f)(2), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5002 of this title as this section.

Subsecs. (a), (c). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Subsec. (d). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–54 amended subsec. (d) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''section 5011'' for ''section 5001''.

Pub. L. 102–40, § 402(d)(1), amended subsec. (d), as amended by Pub. L. 102–54, by substituting ''8111'' for ''5011''. See above.

1986—Subsec. (d). Pub. L. 99–576 added subsec. (d).

§ 8103. Authority to construct and alter, and to acquire sites for, medical facilities

(a) Subject to section 8104 of this title, the Secretary—

(1) may construct or alter any medical facility and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Secretary considers necessary for use as the site for such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility (including the site of such facility) that the Secretary considers necessary for use as a medical facility; and

(3) in order to assure compliance with section 8110(a)(2) of this title, in the case of any outpatient medical facility for which it is proposed to lease space and for which a qualified lessor and an appropriate leasing arrangement are available, shall execute a lease for such facility within 12 months after funds are made available for such purpose.

(b) Whenever the Secretary considers it to be in the interest of the United States to construct a new medical facility to replace an existing medical facility, the Secretary (1) may demolish the existing facility and use the site on which it is located for the site of the new medical facility, or (2) if in the judgment of the Secretary it is more advantageous to construct such medical facility on a different site in the same locality, may exchange such existing facility and the site of such existing facility for the different site.

(c) Whenever the Secretary determines that any site acquired for the construction of a medical facility is not suitable for that purpose, the Secretary may exchange such site for another site to be used for that purpose or may sell such site.

(d)(1) The Secretary may provide for the acquisition of not more than three facilities for the provision of outpatient services or nursing home care through lease-purchase arrangements on real property under the jurisdiction of the Department of Veterans Affairs.

(2)(A) In carrying out this subsection and notwithstanding any other provision of law, the

Secretary may lease, with or without compensation and for a period of not to exceed 35 years, to another party any of the real property described in paragraph (1) of this subsection.

(B) Such real property shall be used as the site of a facility referred to in paragraph (1) of this subsection—

(i) constructed and owned by the lessee of such real property; and

(ii) leased under paragraph (3)(A) of this subsection to the Department for such use and for such other activities as the Secretary determines are appropriate.

(3)(A) The Secretary may enter into a lease for the use of any facility described in paragraph (2)(B) of this subsection for not more than 35 years under such terms and conditions as may be in the best interests of the Department.

(B) Each agreement to lease a facility under subparagraph (A) of this paragraph shall include a provision that—

(i) the obligation of the United States to make payments under the agreement is subject to the availability of appropriations for that purpose; and

(ii) the ownership of such facility shall vest in the United States at the end of such lease.

(4)(A) The Secretary may sublease any space in such a facility to another party at a rate not less than—

(i) the rental rate paid by the Secretary for such space under paragraph (3) of this subsection; plus

(ii) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

(B) In any such sublease, the Secretary shall include such terms relating to default and nonperformance as the Secretary considers appropriate to protect the interests of the United States.

(5) The Secretary shall use the receipts of any payment for the lease of real property under paragraph (2) for the payment of the lease of a facility under paragraph (3).

(6) The authority to enter into an agreement under this subsection—

(A) shall not take effect until the Secretary has entered into agreements under section 316 of this title to carry out at least three collocations; and

(B) shall expire on October 1, 1993.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 56, § 5003; amended Pub. L. 101–237, title VI, § 603(b), Dec. 18, 1989, 103 Stat. 2097; renumbered § 8103 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–446, title XII, § 1201(d)(16), Nov. 2, 1994, 108 Stat. 4684.)

AMENDMENTS

1994—Subsec. (d)(6)(A). Pub. L. 103–446 substituted ''section 316'' for ''section 230(c)''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5003 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–40, § 402(d)(1), substituted ''8104'' for ''5004'' in introductory provisions and ''8110(a)(2)'' for ''5010(a)(2)'' in par. (3).

Subsecs. (b), (c). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1989—Subsec. (d). Pub. L. 101–237 added subsec. (d).

DEVELOPMENT OF MEDICAL-FACILITY MODULAR COMPONENTS

Pub. L. 99–166, title III, § 304, Dec. 3, 1985, 99 Stat. 956, directed Administrator of Veterans' Affairs, not later than one year after Dec. 3, 1985, to develop a modular approach to planning and design of an appropriate Veterans' Administration medical facility for furnishing of hospital care.

§ 8104. Congressional approval of certain medical facility acquisitions

(a)(1) The purpose of this subsection is to enable Congress to ensure the equitable distribution of medical facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility.

(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.

(3) For the purpose of this subsection:

(A) The term ''major medical facility project'' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $7,000,000, but such term does not include an acquisition by exchange.

(B) The term ''major medical facility lease'' means a lease for space for use as a new medical facility at an average annual rental of more than $600,000.

(b) Whenever the President or the Secretary submit to the Congress a request for the funding of a major medical facility project (as defined in subsection (a)(3)(A)) or a major medical facility lease (as defined in subsection (a)(3)(B)), the Secretary shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Any such prospectus shall include the following:

(1) A detailed description of the medical facility to be constructed, altered, leased, or otherwise acquired under this subchapter, including a description of the location of such facility and, in the case of a prospectus proposing the construction of a new or replacement medical facility, a description of the consideration that was given to acquiring an existing facility by lease or purchase and to the sharing of health-care resources with the Department of Defense under section 8111 of this title.

(2) An estimate of the cost to the United States of the construction, alteration, lease, or other acquisition of such facility (including site costs, if applicable).

(3) An estimate of the cost to the United States of the equipment required for the operation of such facility.

(4) Demographic data applicable to such facility, including information on projected

changes in the population of veterans to be served by the facility over a five-year period and a ten-year period.

(5) Current and projected workload and utilization data regarding the facility.

(6) Current and projected operating costs of the facility, including both recurring and nonrecurring costs.

(7) The priority score assigned to the project or lease under the Department's prioritization methodology and, if the project or lease is being proposed for funding before a project or lease with a higher score, a specific explanation of the factors other than the priority score that were considered and the basis on which the project or lease is proposed for funding ahead of projects or leases with higher priority scores.

(8) In the case of a prospectus proposing the construction of a new or replacement medical facility, a description of each alternative to construction of the facility that was considered.

(c) Not less than 30 days before obligating funds for a major medical facility project approved by a law described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the law for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Secretary shall provide the committees with notice of the Secretary's intention to do so and the reasons for the specified amount being exceeded.

(d) In any case in which the Secretary proposes that funds be used for a purpose other than the purpose for which such funds were appropriated, the Secretary shall promptly notify each committee, in writing, of the particulars involved and the reasons why such funds were not used for the purpose for which appropriated.

(e) The Secretary may accept gifts or donations for any of the purposes of this subchapter.

(f) The Secretary may not obligate funds in an amount in excess of $500,000 from the Advance Planning Fund of the Department toward design or development of a major medical facility project (as defined in subsection (a)(3)(A)) until—

(1) the Secretary submits to the committees a report on the proposed obligation; and

(2) a period of 30 days has passed after the date on which the report is received by the committees.

(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 56, § 5004; amended Pub. L. 99–166, title III, §§ 301, 303, Dec. 3, 1985, 99 Stat. 954, 955; Pub. L. 99–576, title II, § 221(b), Oct. 28, 1986, 100 Stat. 3259; Pub. L. 100–322, title IV, § 422, May 20, 1988, 102 Stat. 553; renumbered § 8104 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–405, title III, § 301(a), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–79, § 3(a), Aug. 13, 1993, 107 Stat. 771; Pub. L. 104–262, title II, §§ 205(a), 206(a), (c), Oct. 9, 1996, 110 Stat. 3189, 3190; Pub. L. 105–368, title VII, § 704, Nov. 11, 1998, 112 Stat. 3350; Pub. L. 108–170, title II, § 201, Dec. 6, 2003, 117 Stat. 2047; Pub. L. 108–422, title IV, § 416, Nov. 30, 2004, 118 Stat. 2393.)

AMENDMENTS

2004—Subsec. (g). Pub. L. 108–422 added subsec. (g).

2003—Subsec. (a)(3)(A). Pub. L. 108–170 substituted "$7,000,000" for "$4,000,000".

1998—Subsec. (a)(3)(B). Pub. L. 105–368 substituted "$600,000" for "$300,000".

1996—Subsec. (a)(3)(A). Pub. L. 104–262, § 206(a), substituted "$4,000,000" for "$3,000,000".

Subsec. (b). Pub. L. 104–262, § 205(a)(1), inserted introductory provisions and struck out former introductory provisions which read as follows: "In the event that the President or the Secretary proposes to the Congress the funding of any construction, alteration, lease, or other acquisition to which subsection (a) of this section is applicable, the Secretary shall submit to each committee, on the same day, a prospectus of the proposed medical facility. Such prospectus shall include—".

Subsec. (b)(1) to (3). Pub. L. 104–262, § 205(a)(2)–(4), substituted "A detailed" for "a detailed" and "title." for "title;" in par. (1), "An estimate" for "an estimate" and "applicable)." for "applicable); and" in par. (2), and "An estimate" for "an estimate" in par. (3).

Subsec. (b)(4) to (8). Pub. L. 104–262, § 205(a)(5), added pars. (4) to (8).

Subsec. (f). Pub. L. 104–262, § 206(c), added subsec. (f).

1993—Subsec. (a)(3)(A). Pub. L. 103–79 substituted "$3,000,000" for "$2,000,000".

1992—Subsec. (a)(2). Pub. L. 102–405, § 301(a)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year."

Subsec. (a)(3)(B). Pub. L. 102–405, § 301(a)(2), inserted "new" after "as a" and substituted "$300,000" for "$500,000".

Subsec. (c). Pub. L. 102–405, § 301(a)(3), substituted "law" for "resolution" in two places.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5004 of this title as this section.

Subsec. (b). Pub. L. 102–83 substituted "Secretary" for "Administrator" in two places in introductory provisions.

Subsec. (b)(1). Pub. L. 102–40, § 402(d)(1), substituted "8111" for "5011".

Subsec. (c). Pub. L. 102–83 substituted "Secretary" for "Administrator" and "Secretary's" for "Administrator's".

Subsecs. (d), (e). Pub. L. 102–83 substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (a)(2). Pub. L. 100–322, § 422(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "After the adoption by the committees during a fiscal year of resolutions with identical texts approving major medical facility projects, it shall not be in order in the House of Representatives or in the Senate to consider a bill, resolution, or amendment making an appropriation for that fiscal year or for the next fiscal year which may be expended for a major medical facility project—

''(A) if the project for which the appropriation is proposed to be made is not approved in those resolutions; or

''(B) in the event that the project is approved in the resolutions, if either—

''(i) the bill, resolution, or amendment making the appropriation does not specify—

''(I) the medical facility project for which the appropriation is proposed to be made; and

''(II) the amount proposed to be appropriated for the project; or

''(ii) the amount proposed to be appropriated for the project (when added to any amount previously appropriated for the project) exceeds the amount approved for the project.''

Subsec. (a)(3), (4). Pub. L. 100–322, § 422(b), added par. (3) and struck out former pars. (3) and (4) which read as follows:

''(3) No appropriation may be made for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless each committee has first adopted a resolution approving such lease and setting forth the estimated cost thereof.

''(4) For the purpose of this subsection, the term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000. Such term does not include an acquisition by exchange.''

Subsec. (c). Pub. L. 100–322, § 422(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The estimated cost of any construction, alteration, lease, or other acquisition that is approved under this section, as set forth in the pertinent resolutions described in subsection (a) of this section, may be increased by the Administrator in the contract for such construction, alteration, lease, or other acquisition by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction, alteration, lease, or other acquisition costs, as the case may be, from the date of such approval to the date of contract, but in no event may the amount of such increase exceed 10 per centum of such estimated cost.''

Subsecs. (d) to (f). Pub. L. 100–322, § 422(d), redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which read as follows: ''In the case of any medical facility approved for construction, alteration, lease, or other acquisition by each committee under subsection (a) of this section for which funds have not been appropriated within one year after the date of such approval, either such committee may by resolution rescind its approval at any time thereafter before such funds are appropriated.''

1986—Subsec. (b)(1). Pub. L. 99–576 inserted ''and to the sharing of health-care resources with the Department of Defense under section 5011 of this title'' at end.

1985—Subsec. (a). Pub. L. 99–166, § 301, amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''In order to ensure the equitable distribution of medical facilities throughout the United States, taking into consideration the comparative urgency of the need for the services to be provided in the case of each particular facility—

''(1) no appropriation may be made for the construction, alteration, or acquisition (not including exchanges) of any medical facility which involves a total expenditure of more than $2,000,000 unless each committee has first adopted a resolution approving such construction, alteration, or acquisition and setting forth the estimated cost thereof; and

''(2) no appropriation may be made for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless each committee has first adopted a resolution approving such lease and setting forth the estimated cost thereof.''

Subsec. (b)(1). Pub. L. 99–166, § 303, inserted ''and, in the case of a prospectus proposing the construction of a new or replacement medical facility, a description of the consideration that was given to acquiring an existing facility by lease or purchase'' after ''such facility''.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 205(b) of Pub. L. 104–262 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to any prospectus submitted by the Secretary of Veterans Affairs after the date of the enactment of this Act [Oct. 9, 1996].''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 206(b)(2) of Pub. L. 104–262 provided that: ''The amendments made by subsection (a) of such section [meaning section 301(a) of Pub. L. 102–405, amending this section] shall apply with respect to any major medical facility project or any major medical facility lease of the Department of Veterans Affairs, regardless of when funds are first appropriated for that project or lease, except that in the case of a project for which funds were first appropriated before October 9, 1992, such amendments shall not apply with respect to amounts appropriated for that project for a fiscal year before fiscal year 1998.''

Section 301(b) of Pub. L. 102–405 provided that the amendments made by section 301(a) of Pub. L. 102–405, amending this section, were not applicable with respect to any project for which funds were appropriated before Oct. 9, 1992, prior to repeal by Pub. L. 104–262, title II, § 206(b)(1), Oct. 9, 1996, 110 Stat. 3190.

§ 8105. Structural requirements

(a) Each medical facility (including each nursing home facility for which the Secretary contracts under section 1720 of this title and each State home facility constructed or altered under subchapter III of this chapter) shall be of fire, earthquake, and other natural disaster resistant construction in accordance with standards which the Secretary shall prescribe on a State or regional basis after surveying appropriate State and local laws, ordinances, and building codes and climatic and seismic conditions pertinent to each such facility. When an existing structure is acquired for use as a medical facility, it shall be altered to comply with such standards.

(b)(1) In order to carry out this section, the Secretary shall appoint an advisory committee to be known as the ''Advisory Committee on Structural Safety of Department Facilities'', on which shall serve at least one architect and one structural engineer who are experts in structural resistance to fire, earthquake, and other natural disasters and who are not employees of the Federal Government.

(2) Such advisory committee shall advise the Secretary on all matters of structural safety in the construction and altering of medical facilities in accordance with the requirements of this section and shall review and make recommendations to the Secretary on the regulations prescribed under this section.

(3) The Associate Deputy Secretary, the Under Secretary for Health or the designee of the Under Secretary for Health, and the Department official charged with the responsibility for construction shall be ex officio members of such advisory committee.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 57, § 5005; amended Pub. L. 96–128, title V, § 501(e), Nov. 28, 1979, 93 Stat. 987; renumbered § 8105, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984.)

AMENDMENTS

1992—Subsec. (b)(3). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' in two places.

1991—Pub. L. 102–40 renumbered section 5005 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1720'' for ''620''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1979—Subsec. (a). Pub. L. 96–128 substituted ''subchapter III of this chapter'' for ''section 5031 of this title''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Nov. 28, 1979, see section 601(b) of Pub. L. 96–128, set out as a note under section 1114 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 8106. Construction contracts

(a) The Secretary may carry out any construction or alteration authorized under this subchapter by contract if the Secretary considers it to be advantageous to the United States to do so.

(b)(1) The Secretary may obtain, by contract or otherwise, the services of individuals who are architects or engineers and of architectural and engineering corporations and firms, to the extent that the Secretary may require such services for any medical facility authorized to be constructed or altered under this subchapter.

(2) No corporation, firm, or individual may be employed under the authority of paragraph (1) of this subsection on a permanent basis.

(c) Notwithstanding any other provision of this section, the Secretary shall be responsible for all construction authorized under this subchapter, including the interpretation of construction contracts, the approval of materials and workmanship supplied pursuant to a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 58, § 5006; renumbered § 8106, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5006 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

§ 8107. Operational and construction plans for medical facilities

(a) In order to promote effective planning for the efficient provision of care to eligible veterans, the Secretary, based on the analysis and recommendations of the Under Secretary for Health, shall submit to each committee an annual report regarding long-range health planning of the Department. The report shall be submitted each year not later than the date on which the budget for the next fiscal year is submitted to the Congress under section 1105 of title 31.

(b) Each report under subsection (a) shall include the following:

(1) A five-year strategic plan for the provision of care under chapter 17 of this title to eligible veterans through coordinated networks of medical facilities operating within prescribed geographic service-delivery areas, such plan to include provision of services for the specialized treatment and rehabilitative needs of disabled veterans (including veterans with spinal cord dysfunction, blindness, amputations, and mental illness) through distinct programs or facilities of the Department dedicated to the specialized needs of those veterans.

(2) A description of how planning for the networks will be coordinated.

(c) The Secretary shall submit to each committee not later than January 31 of each year a report showing the location, space, cost, and status of each medical facility (1) the construction, alteration, lease, or other acquisition of which has been approved under section 8104(a) of this title, and (2) which was uncompleted as of the date of the last preceding report made under this subsection.

(d)(1) The Secretary shall submit to each committee, not later than January 31 of each year, a report showing the current priorities of the Department for proposed major medical construction projects. Each such report shall identify the 20 projects, from within all the projects in the Department's inventory of proposed projects, that have the highest priority and, for those 20 projects, the relative priority and rank scoring of each such project and the projected cost of such project (including the projected operating costs, including both recurring and nonrecurring costs). The 20 projects shall be compiled, and their relative rankings shall be shown, by category of project (including the categories of ambulatory care projects, nursing home care projects, and such other categories as the Secretary determines).

(2) The Secretary shall include in each report, for each project listed, a description of the specific factors that account for the relative ranking of that project in relation to other projects within the same category.

(3) In a case in which the relative ranking of a proposed project has changed since the last report under this subsection was submitted, the Secretary shall also include in the report a description of the reasons for the change in the ranking, including an explanation of any change in the scoring of the project under the Department's scoring system for proposed major medical construction projects.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 58, § 5007; amended Pub. L. 99–166, title III, § 302(a)–(c)(1), Dec. 3, 1985, 99 Stat. 955; Pub. L. 99–576, title II, § 222, Oct. 28, 1986, 100 Stat. 3259; renumbered § 8107 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(f)(3), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title II, § 204, Oct. 9, 1996, 110 Stat. 3188; Pub. L. 105–368, title X, § 1005(b)(18), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 108–170, title II, § 203, Dec. 6, 2003, 117 Stat. 2048.)

AMENDMENTS

2003—Subsec. (b)(3), (4). Pub. L. 108–170 struck out pars. (3) and (4), which required annual reports to include profiles regarding networks of medical facilities and status reports for each facility.

1998—Subsec. (b)(3)(E). Pub. L. 105–368 substituted ''section 7306(f)(1)(A)'' for ''section 7305''.

1996—Subsec. (a). Pub. L. 104–262, § 204(2), added subsec. (a) and struck out former subsec. (a) which directed the Secretary to submit an annual report on the construction, replacement, alteration, and operation of medical facilities.

Subsecs. (b), (c). Pub. L. 104–262, § 204(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 104–262, § 204(3), added subsec. (d).

1992—Subsec. (a)(1), (2)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5007 of this title as this section.

Subsec. (a)(1). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Subsec. (a)(2)(B). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–54 amended subsec. (a)(2)(B) as in effect immediately before the enactment of Pub. L. 102–40 by striking out the second comma before ''are most in need of''.

Subsec. (b). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''8104(a)'' for ''5004(a)''.

1986—Subsec. (a). Pub. L. 99–576 inserted '', after considering the analysis and recommendations of the Chief Medical Director,'' after ''Administrator'' in pars. (1) and (2)(B).

1985—Pub. L. 99–166, § 302(c)(1), substituted ''Operational and construction plans for medical facilities'' for ''Reports to congressional committees'' in section catchline.

Subsec. (a)(1). Pub. L. 99–166, § 302(a)(1)–(3), designated existing provisions as par. (1), substituted ''an annual report on the construction, replacement, alteration, and operation of medical facilities'' for ''an annual report on the construction, replacement, and alteration of medical facilities'', and struck out provisions relating to the content of the reports to be submitted to congressional committees and the time such reports were to be submitted.

Subsec. (a)(2), (3). Pub. L. 99–166, § 302(a)(4), added pars. (2) and (3).

Subsec. (b). Pub. L. 99–166, § 302(b), struck out ''(beginning in 1981)'' before ''a report'', designated existing provisions as cl. (1), and substituted cl. (2) designation for '', in the case of the second and each succeeding report made under this subsection,''.

§ 8108. Contributions to local authorities

The Secretary may make contributions to local authorities toward, or for, the construction of traffic controls, road improvements, or other devices adjacent to a medical facility if considered necessary for safe ingress or egress.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 58, § 5008; renumbered § 8108, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5001(g) of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5008 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

§ 8109. Parking facilities

(a) For the purpose of this section—

(1) The term ''garage'' means a structure (or part of a structure) in which vehicles may be parked.

(2) The term ''parking facility'' includes—

(A) a surface parking lot; and

(B) a garage.

(3) The term ''eligible person'' means an individual to whom the Secretary is authorized to furnish medical examination or treatment.

(b) In order to accommodate the vehicles of employees of medical facilities, vehicles used to transport veterans and eligible persons to or from such facilities for the purpose of examination or treatment, and the vehicles of visitors and other individuals having business at such facilities, the Secretary—

(1) may construct or alter parking facilities, and may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, such land or interests in land as the Secretary considers necessary for use as the site for any such construction or alteration;

(2) may acquire, by purchase, lease, condemnation, donation, exchange, or otherwise, any facility that the Secretary considers necessary for use as a parking facility; and

(3) may operate and maintain parking facilities.

(c)(1) Except as provided in paragraph (2) of this subsection, each employee, visitor, and other individual having business at a medical facility for which parking fees have been established under subsection (d) or (e) of this section shall be charged the applicable parking fee for the use of a parking facility at such medical facility.

(2) A parking fee shall not be charged under this subsection for the accommodation of any vehicle used to transport to or from a medical facility—

(A) a veteran or eligible person in connection with such veteran or eligible person seeking examination or treatment; or

(B) a volunteer worker (as determined in accordance with regulations which the Secretary shall prescribe) in connection with such worker performing services for the benefit of veterans receiving care at a medical facility.

(3) The Secretary shall collect (or provide for the collection of) parking fees charged under this subsection.

(d)(1) For each medical facility where funds from the revolving fund described in subsection (h) of this section are expended for—

(A) a garage constructed or acquired by the Department at a cost exceeding $500,000 (or, in the case of acquisition by lease, $100,000 per year); or

(B) a project for the alteration of a garage at a cost exceeding $500,000,

the Secretary shall prescribe a schedule of parking fees to be charged at all parking facilities used in connection with such medical facility.

(2) The parking fee schedule prescribed for a medical facility referred to in paragraph (1) of this subsection shall be designed to establish fees which the Secretary determines are reasonable under the circumstances.

(e) The Secretary may prescribe a schedule of parking fees for the parking facilities at any medical facility not referred to in subsection (d) of this section. Any such schedule shall be designed to establish fees which the Secretary determines to be reasonable under the circumstances and shall cover all parking facilities used in connection with such medical facility.

(f) The Secretary may contract (by lease or otherwise) for the operation of parking facilities at medical facilities under such terms and conditions as the Secretary prescribes and may do so without regard to laws requiring full and open competition.

(g) Subject to subsections (h) and (i) of this section, there are authorized to be appropriated such amounts as are necessary to finance (in whole or in part) the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities.

(h)(1) Amounts appropriated pursuant to subsection (g) of this section and parking fees collected under subsection (c) of this section shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(3)(A) Except as provided in subparagraph (B) of this paragraph, no funds other than funds from the revolving fund may be expended for the construction, alteration, or acquisition (including site acquisition) of a garage at a medical facility after September 30, 1986.

(B) Subparagraph (A) of this paragraph does not apply to the use of funds for investigations and studies, surveys, designs, plans, construction documents, specifications, and similar actions not directly involved in the physical construction of a structure.

(i)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of parking facilities at medical facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 8104(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund (including any funds proposed in such bill, resolution, or amendment to be appropriated to the revolving fund) may be expended for a project involving a total expenditure of more than $4,000,000 for the construction, alteration, or acquisition (including site acquisition) of a parking facility or facilities at a medical facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 59, § 5009; amended Pub. L. 99–576, title II, § 223(a)(1), Oct. 28, 1986, 100 Stat. 3259; renumbered § 8109 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–79, § 3(b), Aug. 13, 1993, 107 Stat. 771; Pub. L. 104–262, title II, § 207(b), Oct. 9, 1996, 110 Stat. 3190; Pub. L. 105–368, title VII, § 705, Nov. 11, 1998, 112 Stat. 3350; Pub. L. 108–422, title IV, § 415, Nov. 30, 2004, 118 Stat. 2393.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5004 of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

2004—Subsec. (j). Pub. L. 108–422 added subsec. (j).

1998—Subsec. (i)(2). Pub. L. 105–368 substituted "$4,000,000" for "$3,000,000".

1996—Subsec. (h)(3)(B). Pub. L. 104–262 substituted "construction documents" for "working drawings".

1993—Subsec. (i)(2). Pub. L. 103–79 substituted "$3,000,000" for "$2,000,000".

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5009 of this title as this section.

Subsecs. (a) to (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in concluding provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in subpar. (A).

Subsecs. (d)(2), (e), (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (i)(2). Pub. L. 102–40, § 402(d)(1), substituted "8104(a)(2)" for "5004(a)(2)".

1986—Pub. L. 99–576 amended section generally, substituting "Parking facilities" for "Garages and parking facilities" in section catchline and substituting present provisions consisting of subsecs. (a) to (i) for former provisions consisting of subsecs. (a) to (c), and generally revising and expanding section to require VA to establish and collect reasonable parking fees at all facilities where a garage is constructed or acquired or altered at a cost of more than $500,000 (or leased for more than $100,000 per year), and allowing discretionary paid parking at all other facilities.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 223(b) of Pub. L. 99–576 provided that:

"(1) Except as provided in paragraphs (2) and (3), the amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Oct. 28, 1986].

"(2)(A) The amendments made by this section shall not abrogate the provisions of a collective bargaining agreement which, on the date of the enactment of this Act, is in effect and includes a provision which specifies a termination date for such agreement.

''(B) After the date of the enactment of this Act, if a collective bargaining agreement described in subparagraph (A) is modified, extended, or renewed, such subparagraph shall no longer, as of the date of the modification, extension, or renewal, apply to such agreement.

''(C) In the case of a collective bargaining agreement which on such date of enactment is in effect but has no provision which specifies a termination date, the authorities and requirements in section 5009 [now 8109] of title 38, United States Code, as amended by subsection (a)(1) of this section, to establish and collect parking fees shall take effect on January 1, 1988.

''(3) Section 5009 [now 8109] of title 38, United States Code, as amended by subsection (a)(1) of this section, shall not apply to the expenditure of funds appropriated for a fiscal year prior to fiscal year 1987 for the construction, alteration, or acquisition (including site acquisition) of a parking facility at a Veterans' Administration [now Department of Veterans Affairs] medical facility.''

§ 8110. Operation of medical facilities

(a)(1) The Secretary shall establish the total number of hospital beds and nursing home beds in medical facilities over which the Secretary has direct jurisdiction for the care and treatment of eligible veterans. The Secretary shall establish the total number of such beds so as to maintain a contingency capacity to assist the Department of Defense in time of war or national emergency to care for the casualties of such war or national emergency. Of the number of beds authorized pursuant to the preceding sentence, the Secretary shall maintain the availability of such additional beds and facilities in addition to the operating bed level as the Secretary considers necessary for such contingency purposes. The President shall include in the Budget transmitted to the Congress for each fiscal year pursuant to section 1105 of title 31, an amount for medical care and amounts for construction sufficient to maintain the availability of the contingency capacity referred to in the second sentence of this paragraph. The Secretary shall staff and maintain, in such a manner as to ensure the immediate acceptance and timely and complete care of patients, and in a manner consistent with the policies of the Secretary on overtime, sufficient beds and other treatment capacities to accommodate, and provide such care to, eligible veterans applying for admission and found to be in need of hospital care or medical services.

(2) The Secretary shall maintain the bed and treatment capacities of all Department medical facilities, including the staffing required to maintain such capacities, so as to ensure the accessibility and availability of such beds and treatment capacities to eligible veterans in all States, to minimize delays in admissions and in the provision of hospital, nursing home, and domiciliary care, and of medical services furnished pursuant to section 1710(a) of this title, and to ensure that eligible veterans are provided such care and services in an appropriate manner.

(3)(A) The Under Secretary for Health shall at the end of each fiscal year (i) analyze agency-wide admission policies and the records of those eligible veterans who apply for hospital care, medical services, and nursing home care, but are rejected or not immediately admitted or provided such care or services, and (ii) review and make recommendations regarding the adequacy of staff levels for compliance with the policy established under subparagraph (C), the adequacy of the established operating bed levels, the geographic distribution of operating beds, the demographic characteristics of the veteran population and the associated need for medical care and nursing home facilities and services in each State, and the proportion of the total number of operating beds that are hospital beds and that are nursing home beds.

(B) After considering the analyses and recommendations of the Under Secretary for Health pursuant to subparagraph (A) of this paragraph for any fiscal year, the Secretary shall report to the committees, on or before December 1 after the close of such fiscal year, on the results of the analysis of the Under Secretary for Health and on the numbers of operating beds and level of treatment capacities required to enable the Department to carry out the primary function of the Veterans Health Administration. The Secretary shall include in each such report recommendations for (i) the numbers of operating beds and the level of treatment capacities required for the health care of veterans and the maintenance of the contingency capacity referred to in paragraph (1) of this subsection, and (ii) the appropriate staffing and funds therefor.

(C) The Secretary shall, in consultation with the Under Secretary for Health, establish a nationwide policy on the staffing of Department medical facilities in order to ensure that such facilities have adequate staff for the provision to veterans of appropriate, high-quality care and services. The policy shall take into account the staffing levels and mixture of staff skills required for the range of care and services provided veterans in Department facilities.

(4)(A) With respect to each law making appropriations for the Department for any fiscal year (or any part of a fiscal year), there shall be provided to the Department the funded personnel ceiling defined in subparagraph (C) of this paragraph and the funds appropriated therefor.

(B) In order to carry out the provisions of subparagraph (A) of this paragraph, the Director of the Office of Management and Budget shall, with respect to each such law (i) provide to the Department for the fiscal year (or part of a fiscal year) concerned such funded personnel ceiling and the funds necessary to achieve such ceiling, and (ii) submit to the appropriate committees of the Congress and to the Comptroller General of the United States certification that the Director has so provided such ceiling. Not later than the thirtieth day after the enactment of such a law or, in the event of the enactment of such a law more than thirty days prior to the fiscal year for which such law makes such appropriations, not later than the tenth day of such fiscal year, the certification required in the first sentence of this subparagraph shall be submitted, together with a report containing complete information on the personnel ceiling that the Director has provided to the Department for the employees described in subparagraph (C) of this paragraph.

(C) For the purposes of this paragraph, the term ''funded personnel ceiling'' means, with re-

spect to any fiscal year (or part of a fiscal year), the authorization by the Director of the Office of Management and Budget to employ (under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses) not less than the number of employees for the employment of which appropriations have been made for such fiscal year (or part of a fiscal year).

(5) Notwithstanding any other provision of this title or of any other law, funds appropriated for the Department under the appropriation accounts for medical care, medical and prosthetic research, and medical administration and miscellaneous operating expenses may not be used for, and no employee compensated from such funds may carry out any activity in connection with, the conduct of any study comparing the cost of the provision by private contractors with the cost of the provision by the Department of commercial or industrial products and services for the Veterans Health Administration unless such funds have been specifically appropriated for that purpose.

(6)(A) Temporary research personnel of the Veterans Health Administration shall be excluded from any ceiling on full-time equivalent employees of the Department or any other personnel ceiling otherwise applicable to employees of the Department.

(B) For purposes of subparagraph (A) of this paragraph, the term ''temporary research personnel'' means personnel who are employed in the Veterans Health Administration in other than a career appointment for work on a research activity and who are not paid by the Department or are paid from funds appropriated to the Department to support such activity.

(b) When the Secretary determines, in accordance with regulations which the Secretary shall prescribe, that a Department facility serves a substantial number of veterans with limited English-speaking ability, the Secretary shall establish and implement procedures, upon the recommendation of the Under Secretary for Health, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Department staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(c) The Secretary shall include in the materials submitted to Congress each year in support of the budget of the Department for the next fiscal year a report on activities and proposals involving contracting for performance by contractor personnel of work previously performed by Department employees. The report shall—

(1) identify those specific activities that are currently performed at a Department facility by more than 10 Department employees which the Secretary proposes to study for possible contracting involving conversion from performance by Department employees to performance by employees of a contractor; and

(2) identify those specific activities that have been contracted for performance by contractor employees during the prior fiscal year (shown by location, subject, scope of contracts, and savings) and shall describe the effect of such contracts on the quality of delivery of health services during such year.

(d) The Secretary may not in any fiscal year close more than 50 percent of the beds within a bed section (of 20 or more beds) of a Department medical center unless the Secretary first submits to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report providing a justification for the closure. No action to carry out such closure may be taken after the submission of such report until the end of the 21-day period beginning on the date of the submission of the report.

(e) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, not later than January 20 of each year, a report documenting by network for the preceding fiscal year the following:

(1) The number of medical service and surgical service beds, respectively, that were closed during that fiscal year and, for each such closure, a description of the changes in delivery of services that allowed such closure to occur.

(2) The number of nursing home beds that were the subject of a mission change during that fiscal year and the nature of each such mission change.

(f) For purposes of this section:

(1) The term ''closure'', with respect to beds in a medical center, means ceasing to provide staffing for, and to operate, those beds. Such term includes converting the provision of such bed care from care in a Department facility to care under contract arrangements.

(2) The term ''bed section'', with respect to a medical center, means psychiatric beds (including beds for treatment of substance abuse and post-traumatic stress disorder), intermediate, neurology, and rehabilitation medicine beds, extended care (other than nursing home) beds, and domiciliary beds.

(3) The term ''justification'', with respect to closure of beds, means a written report that includes the following:

(A) An explanation of the reasons for the determination that the closure is appropriate and advisable.

(B) A description of the changes in the functions to be carried out and the means by which such care and services would continue to be provided to eligible veterans.

(C) A description of the anticipated effects of the closure on veterans and on their access to care.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 59, § 5010; amended Pub. L. 96–151, title III, § 301(a), Dec. 20, 1979, 93 Stat. 1095; Pub. L. 97–66, title VI, § 601(b), Oct. 17, 1981, 95 Stat. 1033; Pub. L. 97–72, title I, § 108, Nov. 3, 1981, 95 Stat. 1053; Pub. L. 97–306, title IV, § 409(b), Oct. 14, 1982, 96 Stat. 1446; Pub. L. 97–452, § 2(e)(4), Jan. 12, 1983, 96 Stat. 2479; Pub. L. 98–160, title VII, § 702(19), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 98–528, title I, § 102, Oct. 19, 1984, 98 Stat. 2688; Pub. L. 99–576, title VII, § 702(15), Oct. 28, 1986, 100

Stat. 3302; Pub. L. 100–322, title II, § 222(a), title IV, § 401(a), May 20, 1988, 102 Stat. 531, 543; renumbered § 8110 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XI, § 1103, title XII, § 1201(b)(1), (d)(17), (g)(7), Nov. 2, 1994, 108 Stat. 4681, 4682, 4684, 4687; Pub. L. 104–66, title I, § 1141(c), Dec. 21, 1995, 109 Stat. 726; Pub. L. 104–262, title I, § 101(e)(4), title III, § 305, Oct. 9, 1996, 110 Stat. 3181, 3194; Pub. L. 106–117, title III, § 301, Nov. 30, 1999, 113 Stat. 1571; Pub. L. 107–135, title I, § 124, Jan. 23, 2002, 115 Stat. 2452; Pub. L. 107–314, div. A, title VII, § 726(a), Dec. 2, 2002, 116 Stat. 2599.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5001(a)(2), (3), (h) of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–314 struck out ''at not more than 125,000 and not less than 100,000'' before period at end of first sentence, ''shall operate and maintain a total of not less than 90,000 hospital beds and nursing home beds and'' before ''shall maintain the availability'' in third sentence, and ''to enable the Department to operate and maintain a total of not less than 90,000 hospital and nursing home beds in accordance with this paragraph and'' after ''construction sufficient'' in fourth sentence.

Pub. L. 107–135, § 124(a)(1), inserted ''and in a manner consistent with the policies of the Secretary on overtime,'' after ''complete care of patients,'' in fifth sentence.

Subsec. (a)(2). Pub. L. 107–135, § 124(a)(2), inserted '', including the staffing required to maintain such capacities,'' after ''all Department medical facilities'', substituted '', to minimize'' for ''and to minimize'', and inserted before period at end '', and to ensure that eligible veterans are provided such care and services in an appropriate manner''.

Subsec. (a)(3)(A). Pub. L. 107–135, § 124(b)(1), inserted ''the adequacy of staff levels for compliance with the policy established under subparagraph (C),'' after ''regarding''.

Subsec. (a)(3)(C). Pub. L. 107–135, § 124(b)(2), added subpar. (C).

1999—Subsecs. (d) to (f). Pub. L. 106–117 added subsecs. (d) to (f).

1996—Subsec. (a)(2). Pub. L. 104–262, § 101(e)(4), substituted ''section 1710(a)'' for ''section 1712''.

Subsec. (c). Pub. L. 104–262, § 305, amended subsec. (c) generally, substituting provisions consisting of an introductory par. and pars. (1) and (2), relating to reports on activities and proposals involving contracting for performance by contractor personnel of work previously performed by Department employees for provisions consisting of pars. (1) to (9), relating to conversion of activities at health-care facilities from those performed by Federal employees to those performed by Government contractors.

1995—Subsec. (a)(4). Pub. L. 104–66 substituted ''subparagraph (C)'' for ''subparagraph (D)'' in subpars. (A) and (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: ''Whenever the Director of the Office of Management and Budget is required to submit a certification under subparagraph (B) of this paragraph, the Comptroller General shall submit to the appropriate committees of the Congress a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of that subparagraph. The Comptroller General shall submit the report not later than fifteen days after the end of the period specified in such subparagraph for the Director to submit the certification.''

1994—Subsec. (a)(3)(B), (5), (6). Pub. L. 103–446, § 1201(b)(1), substituted ''Veterans Health Administration'' for ''Department of Medicine and Surgery'' wherever appearing.

Subsec. (c)(3)(B). Pub. L. 103–446, § 1201(d)(17), substituted ''section 513 or 7409'' for ''section 213 or 4117''.

Subsec. (c)(7). Pub. L. 103–446, § 1201(g)(7), which provided for striking out obsolete or executed provisions and directed the amendment of subsec. (c) by striking out par. (7), was not executed because of the prior amendment of subsec. (c) by Pub. L. 103–446, § 1103. See below.

Pub. L. 103–446, § 1103, added par. (7) and struck out former par. (7) which read as follows: ''Not later than February 1, 1984, and February 1 of each of the five succeeding years, the Secretary shall submit a written report to Congress describing the extent to which activities at Department health-care facilities were performed by contractors during the preceding fiscal year and the actual cost savings resulting from such contracts.''

Subsec. (c)(8), (9). Pub. L. 103–446, § 1103, added pars. (8) and (9).

1992—Subsecs. (a)(3), (b), (c)(1), (3)(B). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5010 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1712'' for ''612'' in par. (2).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–40, § 402(d)(1), substituted ''8111, 8111A, or 8153'' for ''5011, 5011A, or 5053'' in par. (3)(A).

1988—Subsec. (a)(6). Pub. L. 100–322, § 222(a), added par. (6).

Subsec. (c)(2). Pub. L. 100–322, § 401(a), inserted ''responsive bids are received from at least two responsible, financially autonomous bidders and'' after ''only if''.

1986—Subsec. (a)(1). Pub. L. 99–576 substituted ''125,000 and not less than 100,000'' for ''one hundred and twenty-five thousand and not less than one hundred thousand'' and ''90,000'' for ''ninety thousand'' in two places.

1984—Subsec. (a)(4)(C). Pub. L. 98–528 substituted provision requiring the Comptroller General to submit a report stating the Comptroller General's opinion as to whether the Director has complied with subpar. (B) not later than fifteen days after end of period specified in that subparagraph for Director to submit required certification for provision which had required the Comptroller General to submit a report stating the Comptroller General's opinion as to whether the Director has complied with the requirements of any law making appropriations for the Veterans' Administration for any fiscal year or any part thereof regarding funded personnel ceilings not later than forty-fifth day after enactment of each such law.

1983—Subsec. (a)(1). Pub. L. 97–452 substituted ''section 1105 of title 31'' for ''section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))''.

Subsec. (c)(2)(B). Pub. L. 98–160 substituted ''quantity and quality'' for ''quantity or quality''.

1982—Subsec. (c). Pub. L. 97–306 added subsec. (c).

1981—Subsec. (a)(1). Pub. L. 97–72, § 108(a)(1), struck out provision authorizing the Administrator, subject to

the approval of the President to establish and operate not less than 125,000 hospital beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans and substituted therefor provisions directing the Administrator to establish a total number of hospital beds and nursing home beds in medical facilities over which the Administrator has direct jurisdiction for the care and treatment of eligible veterans at not more than one hundred and twenty-five thousand and not less than one hundred thousand, and provided that the Administrator establish the total number of such beds so as to maintain a contingency capacity to assist the Department of Defense in time of war or national emergency to care for the casualties of such war or national emergency, that of the number of beds authorized pursuant to the preceding sentence, the Administrator operate and maintain a total of not less than ninety thousand hospital beds and nursing home beds and maintain the availability of such additional beds and facilities in addition to the operating bed level as the Administrator considers necessary for such contingency purposes, and that the President include in the Budget transmitted to the Congress for each fiscal year pursuant to section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a)), an amount for medical care and amounts for construction.

Subsec. (a)(3). Pub. L. 97–72, § 108(a)(2), struck out provision requiring that the Chief Medical Director periodically analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care and medical services and annually advise each committee of the results and the added requirements which those results indicate and substituted therefor provisions that the Chief Medical Director, at the end of each fiscal year, (i) analyze agencywide admission policies and the records of those eligible veterans who apply for hospital care, medical services and nursing home care, but are rejected or not immediately admitted or provided such care or services, and (ii) review and made recommendations regarding the adequacy of the established operating bed levels, the geographic distribution of operating beds, the demographic characteristics of the veteran population and the associated need for medical care and nursing home facilities and services in each State, and the proportion of the total number of operating beds that are hospital beds and that are nursing home beds, and that, after considering the analyses and recommendations of the Chief Medical Director pursuant to subparagraph (A) of this paragraph for any fiscal year, the Administrator report to the committees, on or before December 1 after the close of such fiscal year, on the results of the analysis of the Chief Medical Director and on the required number of beds and the level of treatment capacities required.

Subsec. (a)(4)(A). Pub. L. 97–66, § 601(b)(1)(A), inserted ''for any fiscal year (or any part of a fiscal year)'' after ''With respect to each law making appropriations for the Veterans' Administration''.

Subsec. (a)(4)(B). Pub. L. 97–66, § 601(b)(1)(B), inserted ''(or part of a fiscal year)'' after ''provide to the Veterans' Administration for the fiscal year''.

Subsec. (a)(4)(D). Pub. L. 97–66, § 601(b)(1)(B), inserted ''(or part of a fiscal year)'' after ''fiscal year'' in two places.

Subsec. (a)(5). Pub. L. 97–66, § 601(b)(2), added par. (5).

Subsecs. (b), (c). Pub. L. 97–72, § 108(b), redesignated subsec. (c) as (b). Former subsec. (b), authorizing the Administrator to establish, subject to the approval of the President, not less than twelve thousand beds during fiscal year 1980, and during each fiscal year thereafter, for the furnishing of nursing home care to eligible veterans in facilities over which the Administrator has direct jurisdiction, was struck out.

1979—Subsec. (a)(4). Pub. L. 96–151 added par. (4).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VII, § 726(b), Dec. 2, 2002, 116 Stat. 2599, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on October 1, 2003.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 222(b) of Pub. L. 100–322 provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to fiscal years after fiscal year 1987.''

Section 401(b) of Pub. L. 100–322 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act [May 20, 1988].''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 601(b)(1) of Pub. L. 97–66 effective Oct. 1, 1981, see section 701(b)(4) of Pub. L. 97–66, set out as a note under section 1114 of this title.

Amendment by section 601(b)(2) of Pub. L. 97–66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 301(b) of Pub. L. 96–151 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect with respect to Public Law 96–103 [Nov. 5, 1979, 93 Stat. 771], but, with respect to such Public Law, the certification and report required by subparagraph (B) of paragraph (4) of section 5010 [now 8110] of title 38, United States Code (as added by such amendment), and the report required by subparagraph (C) of such paragraph (as added by such amendment) shall be submitted to the appropriate committees of the Congress not later than January 15, 1980, and February 1, 1980, respectively.''

INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE FACILITIES

Pub. L. 108–422, title VI, § 602, Nov. 30, 2004, 118 Stat. 2397, provided that:

''(a) INVENTORY.—The Secretary of Veterans Affairs shall establish and maintain a national inventory of medical waste management activities in the health care facilities of the Department of Veterans Affairs. The inventory shall include the following:

''(1) A statement of the current national policy of the Department on managing and disposing of medical waste, including regulated medical waste in all its forms.

''(2) A description of the program of each geographic service area of the Department to manage and dispose of medical waste, including general medical waste and regulated medical waste, with a description of the primary methods used in those programs and the associated costs of those programs, with cost information shown separately for in-house costs (including full-time equivalent employees) and contract costs.

''(b) REPORT.—Not later than June 30, 2005, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on medical waste management activities in the facilities of the Department of Veterans Affairs. The report shall include the following:

''(1) The inventory established under subsection (a), including all the matters specified in that subsection.

''(2) A listing of each violation of medical waste management and disposal regulations reported at any health care facility of the Department over the preceding five years by any Federal or State agency, along with an explanation of any remedial or other action taken by the Secretary in response to each such reported violation.

''(3) A description of any plans to modernize, consolidate, or otherwise improve the management of medical waste and disposal programs at health care facilities of the Department, including the projected

costs associated with such plans and any barriers to achieving goals associated with such plans.

''(4) An assessment or evaluation of the available methods of disposing of medical waste and identification of which of those methods are more desirable from an environmental perspective in that they would be least likely to result in contamination of air or water or otherwise cause future cleanup problems.''

CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS

Section 136 of Pub. L. 100–322 directed Administrator, not later than June 1, 1988, to convert underused space located in facilities under jurisdiction of Administrator in urban areas with significant numbers of homeless veterans into 500 domiciliary-care beds to be used for care of veterans in need of domiciliary care, primarily homeless veterans.

POLICY OF COMPREHENSIVE VETERANS' HEALTH-CARE SYSTEM

Section 409(a) of Pub. L. 97–306 provided that: ''It is the policy of the United States that the Veterans' Administration—

''(1) shall maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

''(2) shall operate such system through cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.''

§ 8111. Sharing of Department of Veterans Affairs and Department of Defense health care resources

(a) REQUIRED COORDINATION AND SHARING OF HEALTH CARE RESOURCES.—The Secretary of Veterans Affairs and the Secretary of Defense shall enter into agreements and contracts for the mutually beneficial coordination, use, or exchange of use of the health care resources of the Department of Veterans Affairs and the Department of Defense with the goal of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

(b) JOINT REQUIREMENTS FOR SECRETARIES OF VETERANS AFFAIRS AND DEFENSE.—To facilitate the mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, the two Secretaries shall carry out the following functions:

(1) Develop and publish a joint strategic vision statement and a joint strategic plan to shape, focus, and prioritize the coordination and sharing efforts among appropriate elements of the two Departments and incorporate the goals and requirements of the joint sharing plan into the strategic and performance plan of each Department under the Government Performance and Results Act.

(2) Jointly fund the Department of Veterans Affairs-Department of Defense Joint Executive Committee under section 320 of this title.

(3) Continue to facilitate and improve sharing between individual Department of Veterans Affairs and Department of Defense health care facilities, but giving priority of effort to initiatives (A) that improve sharing and coordination of health resources at the intraregional and nationwide levels, and (B) that improve the ability of both Departments to provide coordinated health care.

(4) Establish a joint incentive program under subsection (d).

[(c) Repealed. Pub. L. 108–136, div. A, title V, § 583(b)(1), Nov. 24, 2003, 117 Stat. 1491.]

(d) JOINT INCENTIVES PROGRAM.—(1) Pursuant to subsection (b)(4), the two Secretaries shall carry out a program to identify, provide incentives to, implement, fund, and evaluate creative coordination and sharing initiatives at the facility, intraregional, and nationwide levels. The program shall be administered by the Department of Veterans Affairs-Department of Defense Joint Executive Committee, under procedures jointly prescribed by the two Secretaries.

(2) To facilitate the incentive program, effective October 1, 2003, there is established in the Treasury a fund to be known as the ''DOD–VA Health Care Sharing Incentive Fund''. Each Secretary shall annually contribute to the fund a minimum of $15,000,000 from the funds appropriated to that Secretary's Department. Such funds shall remain available until expended and shall be available for any purpose authorized by this section.

(3)(A) For each fiscal year during which the program under this subsection is in effect, the Comptroller General shall conduct a review of the implementation and effectiveness of the incentives program under this subsection. Upon completion of each such annual review, the Comptroller General shall submit to the Committees on Armed Services and Veterans' Affairs of the Senate and House of Representatives a report on the results of that review. Each such report shall be submitted not later than February 28 of the year following the fiscal year covered by the report. In addition, the Comptroller General shall conduct such a review during the first five months of fiscal year 2004 and, not later than February 28, 2004, shall submit to those committees a report on the implementation and effectiveness of the incentives program under this subsection to that date.

(B) Each report under this paragraph shall describe activities carried out under the program under this subsection during the preceding fiscal year (or, in the case of the first such report, to the date of the submission of the report). Each report shall include at least the following:

(i) An analysis of the initiatives funded by the Committee, and the funds so expended by such initiatives, from the DOD–VA Health Care Sharing Incentive Fund, including the purposes and effects of those initiatives on improving access to care by beneficiaries, improvements in the quality of care received by those beneficiaries, and efficiencies gained in delivering services to those beneficiaries.

(ii) Other matters of interest, including recommendations from the Comptroller General for legislative improvements to the program.

(4) The program under this subsection shall terminate on September 30, 2007.

(e) GUIDELINES AND POLICIES FOR IMPLEMENTATION OF COORDINATION AND SHARING RECOMMENDATIONS, CONTRACTS, AND AGREEMENTS.—(1) To implement the recommendations made by the Department of Veterans Affairs-Department

of Defense Joint Executive Committee with respect to health care resources, as well as to carry out other health care contracts and agreements for coordination and sharing initiatives as they consider appropriate, the two Secretaries shall jointly issue guidelines and policy directives. Such guidelines and policies shall provide for coordination and sharing that—

(A) is consistent with the health care responsibilities of the Department of Veterans Affairs under this title and with the health care responsibilities of the Department of Defense under chapter 55 of title 10;

(B) will not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department; and

(C) will not reduce capacities in certain specialized programs of the Department of Veterans Affairs that the Secretary is required to maintain in accordance with section 1706(b) of this title.

(2) To facilitate the sharing and coordination of health care services between the two Departments, the two Secretaries shall jointly develop and implement guidelines for a standardized, uniform payment and reimbursement schedule for those services. Such schedule shall be implemented no later than October 1, 2003, and shall be revised periodically as necessary. The two Secretaries, following implementation of the schedule, may on a case-by-case basis waive elements of the schedule if they jointly agree that such a waiver is in the best interests of both Departments.

(3)(A) The guidelines established under paragraph (1) shall authorize the heads of individual Department of Defense and Department of Veterans Affairs medical facilities and service regions to enter into health care resources coordination and sharing agreements.

(B) Under any such agreement, an individual who is a primary beneficiary of one Department may be provided health care, as provided in the agreement, at a facility or in the service region of the other Department that is a party to the sharing agreement.

(C) Each such agreement shall identify the health care resources to be shared.

(D) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing Department is (i) on a referral basis from the facility or service region of the other Department, and (ii) does not (as determined by the head of the providing facility or region) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing Department.

(E) Each such agreement shall provide that a providing Department or service region shall be reimbursed for the cost of the health care resources provided under the agreement and that the rate of such reimbursement shall be as determined in accordance with paragraph (2).

(F) Each proposal for an agreement under this paragraph shall be effective (i) on the 46th day after the receipt of such proposal by the Committee, unless earlier disapproved, or (ii) if earlier approved by the Committee, on the date of such approval.

(G) Any funds received through such a uniform payment and reimbursement schedule shall be credited to funds that have been allotted to the facility of either Department that provided the care or services, or is due the funds from, any such agreement.

(f) ANNUAL JOINT REPORT.—(1) At the time the President's budget is transmitted to Congress in any year pursuant to section 1105 of title 31, the two Secretaries shall submit to Congress a joint report on health care coordination and sharing activities under this section during the fiscal year that ended during the previous calendar year.

(2) Each report under this section shall include the following:

(A) The guidelines prescribed under subsection (e) (and any revision of such guidelines).

(B) The assessment of further opportunities identified by the Department of Veterans Affairs-Department of Defense Joint Executive Committee under subsection (d)(3) of section 320 of this title for the sharing of health-care resources between the two Departments.

(C) Any recommendation made by that committee under subsection (c)(2) of that section during that fiscal year.

(D) A review of the sharing agreements entered into under subsection (e) and a summary of activities under such agreements during such fiscal year and a description of the results of such agreements in improving access to, and the quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

(E) A summary of other planning and activities involving either Department in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year.

(F) Such recommendations for legislation as the two Secretaries consider appropriate to facilitate the sharing of health-care resources between the two Departments.

(3) In addition to the matters specified in paragraph (2), the two Secretaries shall include in the annual report under this subsection an overall status report of the progress of health resources sharing between the two Departments as a consequence of subtitle C of title VII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) and of other sharing initiatives taken during the period covered by the report. Such status report shall indicate the status of such sharing and shall include appropriate data as well as analyses of that data. The annual report shall include the following:

(A) Enumerations and explanations of major policy decisions reached by the two Secretaries during the period covered by the report period with respect to sharing between the two Departments.

(B) A description of progress made in new ventures or particular areas of sharing and coordination that would be of policy interest to

Congress consistent with the intent of such subtitle.

(C) A description of enhancements of access to care of beneficiaries of both Departments that came about as a result of new sharing approaches brought about by such subtitle.

(D) A description of proposals for which funds are provided through the joint incentives program under subsection (d), together with a description of their results or status at the time of the report, including access improvements, savings, and quality-of-care enhancements they brought about, and a description of any additional use of funds made available under subsection (d).

(4) In addition to the matters specified in paragraphs (2) and (3), the two Secretaries shall include in the annual report under this subsection for each year through 2008 the following:

(A) A description of the measures taken, or planned to be taken, to implement the health resources sharing project under section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314) and any cost savings anticipated, or cost sharing achieved, at facilities participating in the project, including information on improvements in access to care, quality, and timeliness, as well as impediments encountered and legislative recommendations to ameliorate such impediments.

(B) A description of the use of the waiver authority provided by section 722(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), including—

(i) a statement of the numbers and types of requests for waivers under that section of administrative policies that have been made during the period covered by the report and, for each such request, an explanation of the content of each request, the intended purpose or result of the requested waiver, and the disposition of each request; and

(ii) descriptions of any new administrative policies that enhance the success of the project.

(5) In addition to the matters specified in paragraphs (2), (3), and (4), the two Secretaries shall include in the annual report under this subsection for each year through 2009 a report on the pilot program for graduate medical education under section 725 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), including activities under the program during the preceding year and each Secretary's assessment of the efficacy of providing education and training under that program.

(g) DEFINITIONS.—For the purposes of this section:

(1) The term ''beneficiary'' means a person who is a primary beneficiary of the Department of Veterans Affairs or of the Department of Defense.

(2) The term ''direct health care'' means health care provided to a beneficiary in a medical facility operated by the Department of Veterans Affairs or the Department of Defense.

(3) The term ''head of a medical facility'' (A) with respect to a medical facility of the Department of Veterans Affairs, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

(4) The term ''health-care resource'' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, services under sections 1782 and 1783 of this title, any other health-care service, and any health-care support or administrative resource.

(5) The term ''primary beneficiary'' (A) with respect to the Department means a person who is eligible under this title (other than under section 1782, 1783, or 1784 or subsection (d) of this section) or any other provision of law for care or services in Department medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

(6) The term ''providing Department'' means the Department of Veterans Affairs, in the case of care or services furnished by a facility of the Department of Veterans Affairs, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.

(7) The term ''service region'' means a geographic service area of the Veterans Health Administration, in the case of the Department of Veterans Affairs, and a service region, in the case of the Department of Defense.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 60, § 5011; amended Pub. L. 97–174, § 3(a), (b)(1), May 4, 1982, 96 Stat. 70, 73; Pub. L. 97–452, § 2(e)(4), Jan. 12, 1983, 96 Stat. 2479; renumbered § 8111 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(g)(8), (i)(10), Nov. 2, 1994, 108 Stat. 4687, 4688; Pub. L. 107–135, title II, § 208(e)(6), Jan. 23, 2002, 115 Stat. 2464; Pub. L. 107–314, div. A, title VII, § 721(a)(1), Dec. 2, 2002, 116 Stat. 2589; Pub. L. 108–136, div. A, title V, § 583(b), (c), Nov. 24, 2003, 117 Stat. 1491, 1492; Pub. L. 108–422, title VI, § 605, Nov. 30, 2004, 118 Stat. 2399.)

REFERENCES IN TEXT

The Government Performance and Results Act, referred to in subsec. (b)(1), probably means the Government Performance and Results Act of 1993, Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

The Bob Stump National Defense Authorization Act for Fiscal Year 2003, referred to in subsec. (f)(3), is Pub. L. 107–314, Dec. 2, 2002, 116 Stat. 2458. Subtitle C (§§ 721–726) of title VII of division A of the Act amended

this section, section 8110 of this title, and section 1104 of Title 10, Armed Forces, enacted provisions set out as notes under this section, section 8110 of this title, and sections 1074g and 1094a of Title 10, and repealed provisions set out as a note under section 1094a of Title 10. Section 722 of the Act is set out as a note under this section. Section 725 of the Act is set out as a note under section 1094a of Title 10. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5003 of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

2004—Subsec. (d)(2). Pub. L. 108–422 inserted ''and shall be available for any purpose authorized by this section'' before period at end.

2003—Subsec. (b)(2). Pub. L. 108–136, § 583(b)(2)(A), substituted ''the Department of Veterans Affairs-Department of Defense Joint Executive Committee under section 320 of this title'' for ''the interagency committee provided for under subsection (c)''.

Subsec. (c). Pub. L. 108–136, § 583(b)(1), struck out subsec. (c) which related to establishment of Department of Veterans Affairs-Department of Defense Health Executive Committee.

Subsec. (d)(1). Pub. L. 108–136, § 583(b)(2)(B), substituted ''Department of Veterans Affairs-Department of Defense Joint Executive Committee'' for ''Committee established in subsection (c)''.

Subsec. (e)(1). Pub. L. 108–136, § 583(b)(2)(C), substituted ''Department of Veterans Affairs-Department of Defense Joint Executive Committee with respect to health care resources'' for ''Committee under subsection (c)(2)'' in introductory provisions.

Subsec. (f)(2)(B), (C). Pub. L. 108–136, § 583(b)(2)(D), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which read as follows:

''(B) The assessment of further opportunities identified under subparagraph (C) of subsection (c)(5) for the sharing of health-care resources between the two Departments.

''(C) Any recommendation made under subsection (c)(4) during such fiscal year.''

Subsec. (f)(3), (4)(A), (B), (5). Pub. L. 108–136, § 583(c), inserted ''(Public Law 107–314)'' after ''for Fiscal Year 2003''.

2002—Pub. L. 107–314 amended section catchline and text generally. Prior to amendment, text related to agreements and contracts for mutual use or exchange of use of hospital and domiciliary facilities and other resources by the Secretary of Veterans Affairs and the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy and provided for establishment of the Department/Department of Defense Health-Care Resources Sharing Committee.

Subsec. (g)(4). Pub. L. 107–135, § 208(e)(6)(A), inserted ''services under sections 1782 and 1783 of this title'' after ''of this title,''.

Subsec. (g)(5). Pub. L. 107–135, § 208(e)(6)(B), substituted ''section 1782, 1783, or 1784'' for ''section 1711(b) or 1713''.

1994—Subsec. (b)(2). Pub. L. 103–446, § 1201(g)(8)(A), in concluding provisions, substituted ''During odd-numbered fiscal years'' for ''During fiscal years 1982 and 1983'' and ''During even-numbered fiscal years'' for ''During fiscal year 1984'' and struck out after third sentence ''Thereafter, the chairmanship of the Committee shall alternate each fiscal year between the Under Secretary for Health and the Assistant Secretary.''

Subsec. (b)(4). Pub. L. 103–446, § 1201(g)(8)(B), substituted ''At such times as'' for ''Within nine months of the date of the enactment of this subsection and at such times thereafter as''.

Subsec. (f)(6). Pub. L. 103–446, § 1201(i)(10), inserted ''of Defense'' after second reference to ''Secretary''.

1992—Subsecs. (b)(2), (d)(5), (e). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director'' wherever appearing.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5011 of this title as this section.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Sharing of Department'' for ''Sharing of Veterans' Administration'' in section catchline.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Pub. L. 102–40, § 402(d)(1), substituted ''8110(a)(1)'' for ''5010(a)(1)''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (4).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing in pars. (1) and (2)(A).

Subsec. (c)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions and in par. (6).

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted ''1701'' for ''601'' in par. (4) and ''1711(b) or 1713'' for ''611(b) or 613'' in par. (5).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1983—Subsec. (f). Pub. L. 97–452 substituted ''section 1105 of title 31'' for ''section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11(a))''.

1982—Pub. L. 97–174, § 3(b)(1), substituted ''Sharing of Veterans' Administration and Department of Defense health-care resources'' for ''Use of Armed Forces facilities'' in section catchline.

Subsec. (a). Pub. L. 97–174, § 3(a)(1), (2), designated existing provisions as subsec. (a) and substituted ''material, and other resources as may be needed to operate such facilities properly, except that the Administrator may not enter into an agreement that would result (1) in a permanent reduction in the total number of authorized Veterans' Administration hospital beds and nursing home beds to a level below the minimum number of such beds required by section 5010(a)(1) of this title to be authorized, or (2) in a permanent reduction in the total number of such beds operated and maintained to a level below the minimum number of such beds required by such section to be operated and maintained'' for ''and material as may be needed to operate such facilities properly, or for the transfer, without reimbursement of appropriations, of facilities, supplies, equipment, or material necessary and proper for authorized care for veterans, except that at no time shall the Administrator enter into any agreement which will result in a permanent reduction of Veterans' Administration hospital and domiciliary beds below the number established or approved on June 22, 1944, plus the estimated number required to meet the load of eligibles under this title,''.

Subsecs. (b) to (g). Pub. L. 97–174, § 3(a)(3), added subsecs. (b) to (g).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–314, div. A, title VII, § 721(c), Dec. 2, 2002, 116 Stat. 2595, provided that: ''The amendments made by this section [amending this section and section 1104 of Title 10, Armed Forces] shall take effect on October 1, 2003.''

CONSIDERATION OF COMBINATION OF MILITARY MEDICAL TREATMENT FACILITIES AND HEALTH CARE FACILITIES OF DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 108–375, div. B, title XXVIII, § 2811, Oct. 28, 2004, 118 Stat. 2128, provided that:

''(a) DEPARTMENT OF DEFENSE CONSIDERATION OF JOINT CONSTRUCTION.—When considering any military

construction project for the construction of a new military medical treatment facility in the United States or a territory or possession of the United States, the Secretary of Defense shall consult with the Secretary of Veterans Affairs regarding the feasibility of carrying out a joint project to construct a medical facility that—

''(1) could serve as a facility for health-resources sharing between the Department of Defense and the Department of Veterans Affairs; and

''(2) would be no more costly to each Department to construct and operate than separate facilities for each Department.

''(b) DEPARTMENT OF VETERANS AFFAIRS CONSIDERATION OF JOINT CONSTRUCTION.—When considering the construction of a new or replacement medical facility for the Department of Veterans Affairs, the Secretary of Veterans Affairs shall consult with the Secretary of Defense regarding the feasibility of carrying out a joint project to construct a medical facility that—

''(1) could serve as a facility for health-resources sharing between the Department of Veterans Affairs and the Department of Defense; and

''(2) would be no more costly to each Department to construct and operate than separate facilities for each Department.''

HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT

Pub. L. 107–314, div. A, title VII, § 722, Dec. 2, 2002, 116 Stat. 2595, provided that:

''(a) ESTABLISHMENT.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall conduct a health care resources sharing project to serve as a test for evaluating the feasibility, and the advantages and disadvantages, of measures and programs designed to improve the sharing and coordination of health care and health care resources between the Department of Veterans Affairs and the Department of Defense. The project shall be carried out, as a minimum, at the sites identified under subsection (b).

''(2) Reimbursement between the two Departments with respect to the project under this section shall be made in accordance with the provisions of section 8111(e)(2) of title 38, United States Code, as amended by section 721(a).

''(b) SITE IDENTIFICATION.—(1) Not later than 90 days after the date of the enactment of this Act [Dec. 2, 2002], the Secretaries shall jointly identify not less than three sites for the conduct of the project under this section.

''(2) For purposes of this section, a site at which the resource sharing project shall be carried out is an area in the United States in which—

''(A) one or more military treatment facilities and one or more VA health care facilities are situated in relative proximity to each other, including facilities engaged in joint ventures as of the date of the enactment of this Act; and

''(B) for which an agreement to coordinate care and programs for patients at those facilities could be implemented not later than October 1, 2004.

''(c) CONDUCT OF PROJECT.—(1) At sites at which the project is conducted, the Secretaries shall provide a test of a coordinated management system for the military treatment facilities and VA health care facilities participating in the project. Such a coordinated management system for a site shall include at least one of the elements specified in paragraph (2), and each of the elements specified in that paragraph must be included in the coordinated management system for at least one of the participating sites.

''(2) Elements of a coordinated management system referred to in paragraph (1) are the following:

''(A) A budget and financial management system for those facilities that—

''(i) provides managers with information about the costs of providing health care by both Departments at the site; and

''(ii) allows managers to assess the advantages and disadvantages (in terms of relative costs, benefits, and opportunities) of using resources of either Department to provide or enhance health care to beneficiaries of either Department.

''(B) A coordinated staffing and assignment system for the personnel (including contract personnel) employed at or assigned to those facilities, including clinical practitioners of either Department.

''(C) Medical information and information technology systems for those facilities that—

''(i) are compatible with the purposes of the project;

''(ii) communicate with medical information and information technology systems of corresponding elements of those facilities; and

''(iii) incorporate minimum standards of information quality that are at least equivalent to those adopted for the Departments at large in their separate health care systems.

''(d) AUTHORITY TO WAIVE CERTAIN ADMINISTRATIVE POLICIES.—(1)(A) In order to carry out subsection (c), the Secretary of Defense may, in the Secretary's discretion, waive any administrative policy of the Department of Defense otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

''(B) In order to carry out subsection (c), the Secretary of Veterans Affairs may, in the Secretary's discretion, waive any administrative policy of the Department of Veterans Affairs otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

''(C) The two Secretaries shall establish procedures for resolving disputes that may arise from the effects of policy changes that are not covered by other agreements or existing procedures.

''(2) No waiver under paragraph (1) may alter any labor-management agreement in effect as of the date of the enactment of this Act [Dec. 2, 2002] or adopted by either Department during the period of the project.

''(e) USE BY DOD OF CERTAIN TITLE 38 PERSONNEL AUTHORITIES.—(1) In order to carry out subsection (c), the Secretary of Defense may apply to civilian personnel of the Department of Defense assigned to or employed at a military treatment facility participating in the project any of the provisions of subchapters I, III, and IV of chapter 74 of title 38, United States Code, determined appropriate by the Secretary.

''(2) For purposes of paragraph (1), any reference in chapter 74 of title 38, United States Code—

''(A) to the 'Secretary' or the 'Under Secretary for Health' shall be treated as referring to the Secretary of Defense; and

''(B) to the 'Veterans Health Administration' shall be treated as referring to the Department of Defense.

''(f) FUNDING.—From amounts available for health care for a fiscal year, each Secretary shall make available to carry out the project not less than—

''(1) $3,000,000 for fiscal year 2003;

''(2) $6,000,000 for fiscal year 2004; and

''(3) $9,000,000 for each succeeding year during which the project is in effect.

''(g) DEFINITIONS.—For purposes of this section:

''(1) The term 'military treatment facility' means a medical facility under the jurisdiction of the Secretary of a military department.

''(2) The term 'VA health care facility' means a facility under the jurisdiction of the Veterans Health Administration of the Department of Veterans Affairs.

''(h) PERFORMANCE REVIEW.—(1) The Comptroller General shall provide for an annual on-site review at each of the project locations selected by the Secretaries under this section.

''(2) Not later than 90 days after completion of the annual review under paragraph (1), the Comptroller General shall submit a report on such review to the Com-

mittees on Armed Services and Veterans' Affairs of the Senate and House of Representatives.

''(3) Each such report shall include the following:

''(A) The strategic mission coordination between shared activities.

''(B) The accuracy and validity of performance data used to evaluate sharing performance and changes in standards of care or services at the shared facilities.

''(C) A statement that all appropriated funds designated for sharing activities are being used for direct support of sharing initiatives.

''(D) Recommendations concerning continuance of the project at each site for the succeeding 12-month period.

''(4) Whenever there is a recommendation under paragraph (3)(D) to discontinue a resource sharing project under this section, the two Secretaries shall act upon that recommendation as soon as practicable.

''(5) In the initial report under this subsection, the Comptroller General shall validate the baseline information used for comparative analysis.

''(i) TERMINATION.—(1) The project, and the authority provided by this section, shall terminate on September 30, 2007.

''(2) The two Secretaries jointly may terminate the performance of the project at any site when the performance of the project at that site fails to meet performance expectations of the Secretaries, based on recommendations from the Comptroller General under subsection (h) or on other information available to the Secretaries to warrant such action.''

ACCESS TO CARE FOR TRICARE-ELIGIBLE MILITARY RETIREES

Pub. L. 106–117, title I, § 113, Nov. 30, 1999, 113 Stat. 1556, as amended by Pub. L. 108–7, div. K, title I, § 113(d)(2), Feb. 20, 2003, 117 Stat. 483, provided that:

''(a) INTERAGENCY AGREEMENT.—(1) The Secretary of Defense shall enter into an agreement (characterized as a memorandum of understanding or otherwise) with the Secretary of Veterans Affairs with respect to the provision of medical care by the Secretary of Veterans Affairs to eligible military retirees in accordance with the provisions of subsection (c). That agreement shall include provisions for reimbursement of the Secretary of Veterans Affairs by the Secretary of Defense for medical care provided by the Secretary of Veterans Affairs to an eligible military retiree and may include such other provisions with respect to the terms and conditions of such care as may be agreed upon by the two Secretaries.

''(2) Reimbursement under the agreement under paragraph (1) shall be in accordance with rates agreed upon by the Secretary of Defense and the Secretary of Veterans Affairs. Such reimbursement may be made by the Secretary of Defense or by the appropriate TRICARE Managed Care Support contractor, as determined in accordance with that agreement.

''(3) In entering into the agreement under paragraph (1), particularly with respect to determination of the rates of reimbursement under paragraph (2), the Secretary of Defense shall consult with TRICARE Managed Care Support contractors.

''(4) The Secretary of Veterans Affairs may not enter into an agreement under paragraph (1) for the provision of care in accordance with the provisions of subsection (c) with respect to any geographic service area, or a part of any such area, of the Veterans Health Administration unless—

''(A) in the judgment of that Secretary, the Department of Veterans Affairs will recover the costs of providing such care to eligible military retirees; and

''(B) that Secretary has certified and documented, with respect to any geographic service area in which the Secretary proposes to provide care in accordance with the provisions of subsection (c), that such geographic service area, or designated part of any such area, has adequate capacity (consistent with the requirements in section 1705(b)(1) of title 38, United States Code, that care to enrollees shall be timely and acceptable in quality) to provide such care.

''(5) The agreement under paragraph (1) shall be entered into by the Secretaries not later than nine months after the date of the enactment of this Act [Nov. 30, 1999]. If the Secretaries are unable to reach agreement, they shall jointly report, by that date or within 30 days thereafter, to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives on the reasons for their inability to reach an agreement and their mutually agreed plan for removing any impediments to final agreement.

''(b) DEPOSITING OF REIMBURSEMENTS.—Amounts received by the Secretary of Veterans Affairs under the agreement under subsection (a) shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of title 38, United States Code.

''(c) COPAYMENT REQUIREMENT.—The provisions of subsections (f)(1) and (g)(1) of section 1710 of title 38, United States Code, shall not apply in the case of an eligible military retiree who is covered by the agreement under subsection (a).

''(d) PHASED IMPLEMENTATION.—(1) The Secretary of Defense shall include in each TRICARE contract entered into after the date of the enactment of this Act [Nov. 30, 1999] provisions to implement the agreement under subsection (a).

''(2) The provisions of the agreement under subsection (a)(2) and the provisions of subsection (c) shall apply to the furnishing of medical care by the Secretary of Veterans Affairs in any area of the United States only if that area is covered by a TRICARE contract that was entered into after the date of the enactment of this Act.

''(e) ELIGIBLE MILITARY RETIREES.—For purposes of this section, an eligible military retiree is a member of the Army, Navy, Air Force, or Marine Corps who—

''(1) has retired from active military, naval, or air service;

''(2) is eligible for care under the TRICARE program established by the Secretary of Defense;

''(3) has enrolled for care under section 1705 of title 38, United States Code; and

''(4) is not described in paragraph (1) or (2) of section 1710(a) of such title.''

HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

Pub. L. 106–398, § 1 [[div. A], title VII, § 741], Oct. 30, 2000, 114 Stat. 1654, 1654A–192, provided that:

''(a) PRIMACY OF SHARING AGREEMENTS.—The Secretary of Defense shall—

''(1) give full force and effect to any agreement into which the Secretary or the Secretary of a military department entered under section 8111 of title 38, United States Code, or under section 1535 of title 31, United States Code, which was in effect on September 30, 1999; and

''(2) ensure that the Secretary of the military department concerned directly reimburses the Secretary of Veterans Affairs for any services or resources provided under such agreement in accordance with the terms of such agreement, including terms providing for reimbursement from funds available for that military department.

''(b) MODIFICATION OR TERMINATION.—Any agreement described in subsection (a) shall remain in effect in accordance with such subsection unless, during the 12-month period following the date of the enactment of this Act [Oct. 30, 2000], such agreement is modified or terminated in accordance with the terms of such agreement.''

Pub. L. 104–262, title III, § 302(b)(2), Oct. 9, 1996, 110 Stat. 3193, provided that: ''Any services provided pursuant to agreements entered into under section 201 of such Act [Pub. L. 102–585] (38 U.S.C. 8111 note) during the period beginning on October 1, 1996, and ending on the date of the enactment of this Act [Oct. 9, 1996] are hereby ratified.''

Pub. L. 102–585, title II, Nov. 4, 1992, 106 Stat. 4949, as amended by Pub. L. 103–446, title XII, § 1202(e)(1), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 104–262, title III, § 302(a), (b)(1), (c), Oct. 9, 1996, 110 Stat. 3193, provided that:

''SEC. 201. TEMPORARY EXPANSION OF AUTHORITY FOR SHARING AGREEMENTS.

''(a) AUTHORITY.—The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code. Under such an agreement—

''(1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility; and

''(2) the term 'primary beneficiary' shall be treated as including—

''(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 [now 1781] of title 38, United States Code; and

''(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

''(b) USE OF FUNDS.—Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.

''SEC. 202. REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.

''A proposed agreement authorized by section 201 that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Under Secretary for Health of the Department of Veterans Affairs finds, and certifies to the Secretary of Veterans Affairs, that implementation of the agreement—

''(1) will result in the improvement of services to eligible veterans at that facility; and

''(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

''SEC. 203. EXPANDED SHARING AGREEMENTS WITH DEPARTMENT OF DEFENSE.

''Under an agreement under section 201, guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 [now 1781] of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

''(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

''(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

''[SEC. 204. Repealed. Pub. L. 104–262, title III, § 302(b)(1), Oct. 9, 1996, 110 Stat. 3193.]

''SEC. 205. CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.

''In carrying out this title, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

''SEC. 206. ANNUAL REPORT.

''(a) IN GENERAL.—For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

''(b) ADDITIONAL MATTERS FOR FISCAL YEAR 1996 REPORT.—In the report under subsection (a) for fiscal year 1996, the Secretaries shall include the following:

''(1) An assessment of the effect of agreements entered into under section 201 on the delivery of health care to eligible veterans.

''(2) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 [now 1781] of title 38, United States Code.

''(3) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

''SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

''(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(a)(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

''(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.''

CONGRESSIONAL FINDINGS

Section 2(a) of Pub. L. 97–174 provided that: ''The Congress makes the following findings:

''(1) There are opportunities for greater sharing of the health-care resources of the Veterans' Administration and the Department of Defense which would, if achieved, be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and underuse of health-care resources.

''(2) Present incentives to encourage such sharing of health-care resources are inadequate.

''(3) Such sharing of health-care resources can be achieved without a detrimental effect on the primary health-care beneficiaries of the Veterans' Administration and the Department of Defense.''

EXECUTIVE ORDER NO. 13214

Ex. Ord. No. 13214, May 28, 2001, 66 F.R. 29447, which established President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, was revoked by Ex. Ord. No. 13316, § 3(h), Sept. 17, 2003, 68 F.R. 55256, eff. Sept. 30, 2003.

§ 8111A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency

(a)(1) During and immediately following a period of war, or a period of national emergency

declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Secretary may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty.

(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in that disaster or emergency.

(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency as follows:

(i) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(ii) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

(3) The Secretary may give a higher priority to the furnishing of care and services under this section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of veterans with service-connected disabilities.

(4) For the purposes of this section, the terms ''hospital care'', ''nursing home care'', and ''medical services'' have the meanings given such terms by sections 1701(5), 101(28), and 1701(6) of this title, respectively, and the term ''medical services'' includes services under sections 1782 and 1783 of this title.

(b)(1) During a period in which the Secretary is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Secretary, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Department facility under subsection (a) of section 1710 of this title, in a case in which the delay involved in furnishing such care or services at such Department facility or at any other Department facility reasonably accessible to the veteran would, in the judgment of the Under Secretary for Health, be likely to result in a deterioration of such condition; and

(B) hospital care for a veteran who—

(i) is receiving hospital care under section 1710 of this title; or

(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life or health of the veteran;

if Department facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

(c)(1) The cost of any care or services provided by the Department under subsection (a) of this section shall be reimbursed to the Department by the Department of Defense at such rates as may be agreed upon by the Secretary and the Secretary of Defense based on the cost of the care or services provided.

(2) Amounts received under this subsection shall be credited to funds allotted to the Department facility that provided the care or services.

(d)(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly review plans for the implementation of this section not less often than annually.

(2) Whenever a modification to such plans is agreed to, the Secretaries shall jointly submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on such modification. Any such report shall be submitted within 30 days after the modification is agreed to.

(e) The Secretary shall prescribe regulations to govern any exercise of the authority of the Secretary under subsections (a) and (b) of this section and of the Under Secretary for Health under subsection (b)(2)(A) of this section.

(Added Pub. L. 97–174, § 4(a), May 4, 1982, 96 Stat. 74, § 5011A; renumbered § 8111A, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–54, § 14(f)(4), June 13, 1991, 105 Stat. 287; Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104–262, title I, § 101(e)(5), Oct. 9, 1996, 110 Stat. 3181; Pub. L. 106–419, title IV, § 403(b), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 107–135, title II, § 208(e)(7), Jan. 23, 2002, 115 Stat. 2464; Pub. L. 107–287, § 4(b), Nov. 7, 2002, 116 Stat. 2029.)

REFERENCES IN TEXT

The Robert B. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(2)(B)(i), probably means the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–287 redesignated second sentence of par. (1) as par. (3), added par. (2), and redesignated former par. (2) as (4).

Subsec. (a)(2). Pub. L. 107–135 inserted '', and the term 'medical services' includes services under sections 1782 and 1783 of this title'' before period at end.

2000—Subsec. (f). Pub. L. 106–419 struck out subsec. (f) which read as follows: ''Within thirty days after a declaration of a period of war or national emergency described in subsection (a) of this section (or as soon after the end of such thirty-day period as is reasonably practicable), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's allocation of facilities and personnel in order to provide priority hospital care, nursing home care, and medical services

under this section to members of the Armed Forces. Thereafter, with respect to any fiscal year in which the authority in subsection (b) of this section to enter into contracts with private facilities has been used, the Secretary shall report within ninety days after the end of such fiscal year to those committees regarding the extent of, and the circumstances under which, such authority was used.''

1996—Subsec. (b)(2)(A). Pub. L. 104–262 substituted ''subsection (a) of section 1710'' for ''subsection (f) of section 1712''.

1992—Subsecs. (b)(2)(A), (e). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40 renumbered section 5011A of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1701(5)'' for ''601(5)'' and ''1701(6)'' for ''601(6)'' in par. (2).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in par. (1).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in par. (1).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1712'' for ''612'' in par. (2)(A) and ''1710'' for ''610'' in par. (2)(B)(i).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in par. (1).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing in par. (2).

Pub. L. 102–54, § 14(f)(4)(A), amended subsec. (b)(2)(A) as in effect immediately before the enactment of Pub. L. 102–40 by striking out ''or (g)'' after ''subsection (f)''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (1).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (d). Pub. L. 102–54, § 14(f)(4)(B), amended section as in effect immediately before the enactment of Pub. L. 102–40 by adding subsec. (d) and striking out former subsec. (d) which read as follows:

''(1) Not later than six months after the date of the enactment of this section, the Administrator and the Secretary of Defense shall enter into an agreement to plan and establish procedures and guidelines for the implementation of this section. Not later than one year after the date of the enactment of this section, the Administrator and the Secretary shall complete plans for such implementation and shall submit such plans to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives.

''(2) The Administrator and the Secretary of Defense shall jointly review such plans not less often than annually thereafter and shall report to such committees any modification in such plans within thirty days after the modification is agreed to.''

Subsecs. (e), (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(5), 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.

CONGRESSIONAL FINDINGS

Section 2(b) of Pub. L. 97–174 provided that: ''The Congress makes the following further findings:

''(1) During and immediately after a period of war or national emergency involving the use of the Armed Forces of the United States in armed conflict, the Department of Defense might not have adequate health-care resources to care for military personnel wounded in combat and other active-duty military personnel.

''(2) The Veterans' Administration has an extensive, comprehensive health-care system that could be used to assist the Department of Defense in caring for such personnel in such a situation.''

EXECUTIVE ORDER NO. 12751

Ex. Ord. No. 12751, Feb. 14, 1991, 56 F.R. 6787, which related to health care services for Operation Desert Storm, was revoked by Ex. Ord. No. 13350, July 29, 2004, 69 F.R. 46055, set out as a note under section 1701 of Title 50, War and National Defense.

§ 8112. Partial relinquishment of legislative jurisdiction

The Secretary, on behalf of the United States, may relinquish to the State in which any lands or interests therein under the supervision or control of the Secretary are situated, such measure of legislative jurisdiction over such lands or interests as is necessary to establish concurrent jurisdiction between the Federal Government and the State concerned. Such partial relinquishment of legislative jurisdiction shall be initiated by filing a notice thereof with the Governor of the State concerned, or in such other manner as may be prescribed by the laws of such State, and shall take effect upon acceptance by such State.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 60, § 5012; renumbered § 8112, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5007 of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5012 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places.

§ 8113. Property formerly owned by National Home for Disabled Volunteer Soldiers

If by reason of any defeasance or conditional clause or clauses contained in any deed of conveyance of property to the National Home for Disabled Volunteer Soldiers, which property is owned by the United States, the full and complete enjoyment and use of such property is threatened, the Attorney General, upon request of the President, shall institute in the United States district court for the district in which the property is located such proceedings as may be proper to extinguish all outstanding adverse interests. The Attorney General may procure and accept, on behalf of the United States, by gift, purchase, cession, or otherwise, absolute title to, and complete jurisdiction over, all such property.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 61, § 5013; renumbered § 8113, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5006 of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5013 of this title as this section.

§ 8114. Use of federally owned facilities; use of personnel

(a) The Secretary, subject to the approval of the President, may use as medical facilities such suitable buildings, structures, and grounds owned by the United States on March 3, 1925, as may be available for such purposes, and the President may by Executive order transfer any such buildings, structures, and grounds to the control and jurisdiction of the Department upon the request of the Secretary.

(b) The President may require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in the construction and alteration of medical facilities, and the President may employ for such purposes individuals and agencies not connected with the Government, if in the opinion of the President such is desirable, at such compensation as the President may consider reasonable.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 61, § 5014; renumbered § 8114, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 5001(e) of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5014 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

§ 8115. Acceptance of certain property

The President may accept from any State or other political subdivision, or from any person, any building, structure, equipment, or grounds suitable for the care of disabled persons, with due regard to fire or other hazards, state of repair, and all other pertinent considerations. The President may designate which agency of the Federal Government shall have the control and management of any property so accepted.

(Added Pub. L. 96–22, title III, § 301(a), June 13, 1979, 93 Stat. 61, § 5015; renumbered § 8115, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former section 5005 of this title prior to the general revision of this subchapter by Pub. L. 96–22.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5015 of this title as this section.

§ 8116. Nursing home revolving fund

(a)(1) Amounts realized from a transfer pursuant to section 8122(a)(2)(C)[1] of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 8104(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

(Added Pub. L. 100–322, title II, § 205(a), May 20, 1988, 102 Stat. 512, § 5016; renumbered § 8116 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

REPEAL OF SECTION

Pub. L. 108–422, title IV, § 411(c)(1),(f), Nov. 30, 2004, 118 Stat. 2389, 2390, provided that this section is repealed effective at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with section 1710B(b) of this title.

REFERENCES IN TEXT

Section 8122(a)(2) of this title, referred to in subsec. (a)(1), was amended generally by Pub. L. 108–422, title IV, § 411(e)(1), Nov. 30, 2004, 118 Stat. 2389, and, as so amended, no longer contains a subpar. (C).

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5016 of this title as this section.

Pub. L. 102–40, § 402(d)(1), substituted "8122(a)(2)(C)" for "5022(a)(2)(C)" in subsec. (a)(1) and "8104(a)(2)" for "5004(a)(2)" in subsec. (b)(2).

EFFECTIVE DATE OF REPEAL

Repeal effective at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with section 1710B(b) of this title, see section 411(f) of Pub. L. 108–422, set out as an Effective Date of 2004 Amendment note under section 1710B of this title.

§ 8117. Emergency preparedness

(a) READINESS OF DEPARTMENT MEDICAL CENTERS.—(1) The Secretary shall take appropriate actions to provide for the readiness of Department medical centers to protect the patients and staff of such centers from chemical or biological attack or otherwise to respond to such an attack so as to enable such centers to fulfill their obligations as part of the Federal response to public health emergencies.

[1] See References in Text note below.

(2) Actions under paragraph (1) shall include—

(A) the provision of decontamination equipment and personal protection equipment at Department medical centers; and

(B) the provision of training in the use of such equipment to staff of such centers.

(b) SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.—(1) The Secretary shall take appropriate actions to provide for the security of Department medical centers and research facilities, including staff and patients at such centers and facilities.

(2) In taking actions under paragraph (1), the Secretary shall take into account the results of the evaluation of the security needs at Department medical centers and research facilities required by section 154(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 631), including the results of such evaluation relating to the following needs:

(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

(c) TRACKING OF PHARMACEUTICALS AND MEDICAL SUPPLIES AND EQUIPMENT.—The Secretary shall develop and maintain a centralized system for tracking the current location and availability of pharmaceuticals, medical supplies, and medical equipment throughout the Department health care system in order to permit the ready identification and utilization of such pharmaceuticals, supplies, and equipment for a variety of purposes, including response to a chemical or biological attack or other terrorist attack.

(d) TRAINING.—The Secretary shall ensure that the Department medical centers, in consultation with the accredited medical school affiliates of such medical centers, develop and implement curricula to train resident physicians and health care personnel in medical matters relating to biological, chemical, or radiological attacks or attacks from an incendiary or other explosive weapon.

(e) PARTICIPATION IN NATIONAL DISASTER MEDICAL SYSTEM.—(1) The Secretary shall establish and maintain a training program to facilitate the participation of the staff of Department medical centers, and of the community partners of such centers, in the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)).

(2) The Secretary shall establish and maintain the training program under paragraph (1) in accordance with the recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

(3) The Secretary shall establish and maintain the training program under paragraph (1) in consultation with the following:

(A) The Secretary of Defense.

(B) The Secretary of Health and Human Services.

(C) The Director of the Federal Emergency Management Agency.

(f) MENTAL HEALTH COUNSELING.—(1) With respect to activities conducted by personnel serving at Department medical centers, the Secretary shall develop and maintain various strategies for providing mental health counseling and assistance, including counseling and assistance for post-traumatic stress disorder, following a bioterrorist attack or other public health emergency to the following persons:

(A) Veterans.

(B) Local and community emergency response providers.

(C) Active duty military personnel.

(D) Individuals seeking care at Department medical centers.

(2) The strategies under paragraph (1) shall include the following:

(A) Training and certification of providers of mental health counseling and assistance.

(B) Mechanisms for coordinating the provision of mental health counseling and assistance to emergency response providers referred to in paragraph (1).

(3) The Secretary shall develop and maintain the strategies under paragraph (1) in consultation with the Secretary of Health and Human Services, the American Red Cross, and the working group referred to in subsection (e)(2).

(Added Pub. L. 107–287, § 6(a)(1), Nov. 7, 2002, 116 Stat. 2030.)

REFERENCES IN TEXT

Section 154(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, referred to in subsec. (b)(2), is section 154(b)(1) of Pub. L. 107–188, which is set out as a note below.

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(5), 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.

For transfer of functions, personnel, assets, and liabilities of the Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 313(1), 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.

ENHANCEMENT OF EMERGENCY PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS

Pub. L. 107–188, title I, § 154, June 12, 2002, 116 Stat. 631, as amended by Pub. L. 107–287, § 6(b), (c), Nov. 7, 2002, 116 Stat. 2032, provided that:

''[(a) Repealed. Pub. L. 107–287, § 6(b), Nov. 7, 2002, 116 Stat. 2032.]

''(b) SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.—(1) Not later than 180 days after the date of the enactment of this Act [June 12, 2002], the Secretary [of Veterans Affairs] shall carry out an evaluation of the security needs at Department medical centers and research facilities. The evaluation shall address the following needs:

''(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

''(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

''(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

''(D) Any other needs the Secretary considers appropriate.

''[(2) Repealed. Pub. L. 107–287, § 6(b), Nov. 7, 2002, 116 Stat. 2032.]

''[(c) to (f) Repealed. Pub. L. 107–287, § 6(b), Nov. 7, 2002, 116 Stat. 2032.]

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs amounts as follows:

''(1) To carry out activities required by subsection (a) of section 8117 of title 38, United States Code—

''(A) $100,000,000 for fiscal year 2002; and

''(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

''(2) To carry out activities required by subsection (b)(1) of this section and subsections (b) through (f) of section 8117 of title 38, United States Code—

''(A) $33,000,000 for fiscal year 2002; and

''(B) such sums as may be necessary for each of fiscal years 2003 through 2006.''

§ 8118. Authority for transfer of real property; Department of Veterans Affairs Capital Asset Fund

(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States, to a State (or a political subdivision of a State), or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.

(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522, and 541 through 545 of title 40. Any such transfer shall be in accordance with this section and section 8122 of this title.

(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.

(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).

(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.

(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter in this section referred to as the ''Fund''). Amounts in the Fund shall remain available until expended.

(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.

(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:

(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.

(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.

(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, or establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.

(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease, or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.

(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that fiscal year for the Department specification of the following:

(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.

(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the fiscal year during which the budget is submitted.

(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.

(Added Pub. L. 108–422, title IV, § 411(a)(1), Nov. 30, 2004, 118 Stat. 2388.)

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (a)(5), is the date of enactment of Pub. L. 108–422, which was approved Nov. 30, 2004.

TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND

Pub. L. 108–422, title IV, § 411(d), Nov. 30, 2004, 118 Stat. 2389, provided that: ''Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act [Nov. 30, 2004] shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)).''

[Section 411(d) of Pub. L. 108–422, set out above, is effective at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with section 1710B(b) of this title, see section 411(f) of Pub. L. 108–422, set out as an Effective Date of 2004 Amendment note under section 1710B of this title.]

SUBCHAPTER II—PROCUREMENT AND SUPPLY

§ 8121. Revolving supply fund

(a) The revolving supply fund established for the operation and maintenance of a supply system for the Department (including procurement of supplies, equipment, and personal services and the repair and reclamation of used, spent, or excess personal property) shall be—

(1) available without fiscal year limitations for all expenses necessary for the operation and maintenance of such supply system;

(2) reimbursed from appropriations for the cost of all services, equipment, and supplies furnished, at rates determined by the Secretary on the basis of estimated or actual direct cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved) and indirect cost; and

(3) credited with advances from appropriations for activities to which services or supplies are to be furnished, and all other receipts resulting from the operation of the fund, including property returned to the supply system when no longer required by activities to which it had been furnished, the proceeds of disposal of scrap, excess or surplus personal property of the fund, and receipts from carriers and others for loss of or damage to personal property.

(b) The Secretary may authorize the Secretary of Defense to make purchases through the fund in the same manner as activities of the Department. When services, equipment, or supplies are furnished to the Secretary of Defense through the fund, the reimbursement required by paragraph (2) of subsection (a) shall be made from appropriations made to the Department of Defense, and when services or supplies are to be furnished to the Department of Defense, the fund may be credited, as provided in paragraph (3) of subsection (a), with advances from appropriations available to the Department of Defense.

(c) At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Secretary determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.

(d) An adequate system of accounts for the fund shall be maintained on the accrual method, and financial reports prepared on the basis of such accounts. An annual business type budget shall be prepared for operations under the fund.

(e) The Secretary is authorized to capitalize, at fair and reasonable values as determined by the Secretary, all supplies and materials and depot stocks of equipment on hand or on order.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1253, § 5011; amended Pub. L. 87–314, Sept. 26, 1961, 75 Stat. 675; Pub. L. 94–581, title II, § 210(e)(6), Oct. 21, 1976, 90 Stat. 2865; renumbered § 5021, Pub. L. 96–22, title III, § 301(b)(1), June 13, 1979, 93 Stat. 61; Pub. L. 96–330, title IV, § 402(a), Aug. 26, 1980, 94 Stat. 1051; renumbered § 8121, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 108–170, title IV, § 403(a), Dec. 6, 2003, 117 Stat. 2062.)

AMENDMENTS

2003—Pub. L. 108–170 redesignated last sentence of subsec. (a) as subsec. (c), added subsec. (b), and redesignated former subsecs. (b) and (c) as (d) and (e), respectively.

1991—Pub. L. 102–40 renumbered section 5021 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in par. (2) and in last sentence.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1980—Subsec. (a). Pub. L. 96–330 substituted ''actual direct cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)'' for ''actual direct'' in par. (2), and, in provisions following par. (3), substituted ''At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund'' for ''At the end of each fiscal year, any net income of the fund, after making provision for prior losses, shall be covered into the Treasury of the United States as miscellaneous receipts''.

1976—Subsec. (c). Pub. L. 94–581 substituted ''the Administrator'' for ''him''.

1961—Subsec. (a). Pub. L. 87–314 included among the purposes for which the supply fund was established, the repair and reclamation of used, spent, or excess personal property, and authorized the crediting of the fund with property returned to the supply system when no longer required by activities to which it had been furnished.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–170, title IV, § 403(b), Dec. 6, 2003, 117 Stat. 2062, provided that: ''The amendments made by subsection (a) [amending this section] shall apply only with respect to funds appropriated for a fiscal year after fiscal year 2003.''

EFFECTIVE DATE OF 1980 AMENDMENT

Section 402(b) of Pub. L. 96–330 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as of October 1, 1979.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8122. Authority to procure and dispose of property and to negotiate for common services

(a)(1) The Secretary may lease for a term not exceeding three years lands or buildings, or parts or parcels thereof, belonging to the United States and under the Secretary's control. Any lease made pursuant to this subsection to any public or nonprofit organization may be made without regard to the provisions of section 3709

of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 1302 of title 40, or any other provision of law, a lease made pursuant to this subsection to any public or nonprofit organization may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease. Prior to the execution of any such lease, the Secretary shall give appropriate public notice of the Secretary's intention to do so in the newspaper of the community in which the lands or buildings to be leased are located. The proceeds from such leases, less expenses for maintenance, operation, and repair of buildings leased for living quarters, shall be covered into the Treasury of the United States as miscellaneous receipts.

(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.

(3)(A) Subject to subparagraph (B) of this paragraph, the Secretary may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State nursing-home or domiciliary facility real property described in subparagraph (E) of this paragraph which the Secretary determines to be excess to the needs of the Department.

(B) A transfer of real property may not be made under this paragraph unless—

(i) the Secretary has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 1741 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

(ii) the transfer is made subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

(C) A transfer of real property may not be made under this paragraph until—

(i) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and

(ii) a period of 90 consecutive days elapses after the report is received by those committees.

(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

(E) Real property described in this subparagraph is real property that is owned by the United States and administered by the Secretary.

(b) The Secretary may, for the purpose of extending benefits to veterans and dependents, and to the extent the Secretary deems necessary, procure the necessary space for administrative purposes by lease, purchase, or construction of buildings, or by condemnation or declaration of taking, pursuant to law.

(c) The Secretary may procure laundry services, and other common services as specifically approved by the Secretary from nonprofit, tax-exempt educational, medical or community institutions, without regard to the requirements of section 302(c)[1] of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 252(c)), whenever such services are not reasonably available from private commercial sources. Notwithstanding this exclusion, the provisions of section 304 of that Act (41 U.S.C. 254) shall apply to procurement authorized by this subsection.

(d)(1) Real property under the jurisdiction of the Secretary may not be declared excess by the Secretary and disposed of by the General Services Administration or any other entity of the Federal Government unless the Secretary determines that the property is no longer needed by the Department in carrying out its functions and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title.

(2) The Secretary may transfer real property under this section, or under section 8118 of this title, if the Secretary—

(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

(B) holds a public hearing;

(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1253, § 5012; amended Pub. L. 89–785, title II, § 202(a), (b), Nov. 7, 1966, 80 Stat. 1373; Pub. L. 93–82, title III, § 302(2), Aug. 2, 1973, 87 Stat. 195; Pub. L. 94–581, title II, § 210(e)(7), Oct. 21, 1976, 90 Stat. 2865; renumbered § 5022 and amended Pub. L. 96–22, title III, § 301(b), June 13, 1979, 93 Stat. 61; Pub. L. 96–330, title IV, § 403(a), Aug. 26, 1980, 94 Stat. 1052; Pub. L. 97–295, § 4(91), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98–160, title IV, § 401, Nov. 21, 1983, 97 Stat. 1004; Pub. L. 100–322, title IV, § 421(a)(1), May 20, 1988, 102 Stat. 552; Pub. L. 100–687, div. B,

[1] See References in Text note below.

title XV, § 1505, Nov. 18, 1988, 102 Stat. 4135; renumbered § 8122 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(f)(5), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, §§ 4(a)(1), (3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 107–95, § 10(a), Dec. 21, 2001, 115 Stat. 920; Pub. L. 107–217, § 3(j)(3), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108–422, title IV, § 411(e)(1), (2), Nov. 30, 2004, 118 Stat. 2389, 2390.)

REFERENCES IN TEXT

Subsection (c) of section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)), referred to in subsec. (c), was struck out by section 2714(a)(1)(B) of Pub. L. 98–369 and the provisions formerly contained in subsec. (e) were restated in subsec. (c)(1) of section 302 of the 1949 Act.

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–422, § 411(e)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(2)(A) Except as provided in paragraph (3) of this subsection, the Secretary may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Department receives compensation equal to the fair market value of the property.

''(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Secretary and that has an estimated value in excess of $50,000.

''(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 8116 of this title.''

Subsec. (d). Pub. L. 108–422, § 411(e)(2), designated existing provisions as par. (1) and added par. (2).

2002—Subsec. (a)(1). Pub. L. 107–217 substituted ''section 1302 of title 40'' for ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)''.

2001—Subsec. (d). Pub. L. 107–95 inserted before period at end ''and is not suitable for use for the provision of services to homeless veterans by the Department or by another entity under an enhanced-use lease of such property under section 8162 of this title''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5022 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1741'' for ''641'' in par. (3)(B)(i).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in pars. (2)(A) and (3)(A).

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in pars. (2)(B) and (3)(E).

Pub. L. 102–54 amended subsec. (a)(3)(A) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''State'' for ''State home'' before ''nursing-home'' and ''this paragraph'' for ''the paragraph'' before ''which''.

Pub. L. 102–40, § 402(d)(1), substituted ''8116'' for ''5016'' in par. (2)(C).

Subsecs. (b), (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

1988—Subsec. (a)(2). Pub. L. 100–687, § 1505(1), substituted ''Except as provided in paragraph (3) of this subsection, the'' for ''The'' at beginning.

Pub. L. 100–322 amended par. (2) generally. Prior to amendment, par. (2) read as follows:

''(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 180 days from the date upon which the report is submitted.

''(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

''(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.''

Subsec. (a)(3). Pub. L. 100–687, § 1505(2), added par. (3).

1983—Subsec. (a)(2)(A). Pub. L. 98–160, § 401(1), substituted ''180 days'' for ''30 days''.

Subsec. (d). Pub. L. 98–160, § 401(2), added subsec. (d).

1982—Subsec. (a). Pub. L. 97–295, § 4(91)(A), substituted ''of'' for ''entitled 'An Act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1933, and for other purposes,' approved'' after ''section 321 of the Act''.

Subsec. (c). Pub. L. 97–295, § 4(91)(B), inserted ''(41 U.S.C. 254)'' after ''section 304 of that Act''.

1980—Subsec. (a). Pub. L. 96–330 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (b). Pub. L. 96–22 substituted ''necessary space for administrative purposes by lease'' for ''necessary space for administrative, clinical, medical, and outpatient treatment purposes by lease''.

1976—Subsec. (a). Pub. L. 94–581, § 210(e)(7)(A), substituted ''under the Administrator's control'' for ''under his control'' and ''notice of the Administrator's intention'' for ''notice of his intention''.

Subsec. (b). Pub. L. 94–581, § 210(e)(7)(B), substituted ''the Administrator'' for ''he''.

Subsec. (c). Pub. L. 94–581, § 210(e)(7)(C), substituted ''the Administrator'' for ''him''.

1973—Subsec. (a). Pub. L. 93–82 inserted provisions that leases under this subsection may be made without regard to section 5 of title 41, that notwithstanding section 303b of title 40 or any other provision of law, such leases may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration for the lease and that prior to the execution of the leases, the Administrator shall give notice of his intention in the local newspaper.

1966—Pub. L. 89–785 inserted ''and to negotiate for common services'' in section catchline and added subsec. (c).

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–22 effective Oct. 1, 1979, except that the amendment shall not apply with respect to the acquisition, construction, or alteration of any medical facilities if the acquisition, construction, or alteration (not including exchange) was approved by the President before Oct. 1, 1979, see section 302 of Pub. L. 96–22, set out as an Effective Date note under section 8101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

TRANSFER OF REAL PROPERTY DEEMED DESCRIBED IN BUDGET FOR FISCAL YEAR 1989

Section 421(a)(2) of Pub. L. 100–322 provided that any proposed transfer of real property described in subsec. (a)(2)(B) of this section that was described in a report submitted to Committees on Veterans' Affairs of Senate and House of Representatives by Administrator not later than 30 days after May 20, 1988, was to be deemed for purposes of subsec. (a)(2)(A) of this section to have been described in the President's budget for fiscal year 1989.

§ 8123. Procurement of prosthetic appliances

The Secretary may procure prosthetic appliances and necessary services required in the fitting, supplying, and training and use of prosthetic appliances by purchase, manufacture, contract, or in such other manner as the Secretary may determine to be proper, without regard to any other provision of law.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1254, § 5013; amended Pub. L. 94–581, title II, § 210(e)(8), Oct. 21, 1976, 90 Stat. 2865; renumbered § 5023, Pub. L. 96–22, title III, § 301(b)(1), June 13, 1979, 93 Stat. 61; renumbered § 8123, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5023 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places.

1976—Pub. L. 94–581 substituted ''the Administrator'' for ''he''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8124. Grant of easements in Government-owned lands

The Secretary, whenever the Secretary deems it advantageous to the Government and upon such terms and conditions as the Secretary deems advisable, may grant on behalf of the United States to any State, or any agency or political subdivision thereof, or to any public-service company, easements in and rights-of-way over lands belonging to the United States which are under the Secretary's supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authorized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Secretary deems necessary or desirable, is hereby ceded to the State in which the land is located. The Secretary may accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as the Secretary may deem necessary or desirable over the land so acquired. Any such easement or right-of-way shall be terminated upon abandonment or nonuse of the same and all right, title, and interest in the land covered thereby shall thereupon revert to the United States or its assignee.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1254, § 5014; amended Pub. L. 94–581, title II, § 210(e)(9), Oct. 21, 1976, 90 Stat. 2865; renumbered § 5024, Pub. L. 96–22, title III, § 301(b)(1), June 13, 1979, 93 Stat. 61; renumbered § 8124, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5024 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing and ''Secretary's'' for ''Administrator's''.

1976—Pub. L. 94–581 substituted ''the Administrator'' for ''he'' wherever appearing and ''under the Administrator's supervision'' for ''under his supervision''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8125. Procurement of health-care items

(a) Except as provided in subsections (b) and (c) of this section, the Secretary may not procure health-care items under local contracts.

(b)(1) A health-care item for use by the Department may be procured under a local contract if—

(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

(B)(i) the item is not otherwise available to the Department medical center concerned,

(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Department medical center, as determined by the director of the center in accordance with regulations which the Under Secretary for Health shall prescribe, or

(iii) procurement under a local contract is demonstrably more cost-effective for the item.

(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Department in any fiscal year (measured as a percent of the total cost of all

such health-care items procured by the Department in that fiscal year) may be procured under local contracts.

(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

(C) The Secretary may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Secretary, based on the experience of the Department during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Department. The authority to increase such percentage may not be delegated.

(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Department.

(d)(1) Not later than December 1 of each year, the director of each Department medical center shall transmit to the Secretary a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

(2) Not later than February 1 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

(e) For the purposes of this section:

(1) The term ''health-care item'' includes any item listed in, or (as determined by the Secretary) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65 or 66. Effective December 1, 1992, such term also includes any item listed in, or (as determined by the Secretary) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73. Such term does not include perishable items.

(2) The term ''local contract'' means a contract entered into by a Department medical center for procurement of an item for use by that medical center.

(3) The term ''emergency procurement'' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Department, for an item.

(Added Pub. L. 100–322, title IV, § 403(a)(1), May 20, 1988, 102 Stat. 543, § 5025; amended Pub. L. 100–687, div. B, title XV, § 1507(b), (c), Nov. 18, 1988, 102 Stat. 4136, 4137; renumbered § 8125, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 107–14, § 8(a)(15), June 5, 2001, 115 Stat. 35.)

AMENDMENTS

2001—Subsec. (d)(1). Pub. L. 107–14, § 8(a)(15)(A), struck out ''(beginning in 1992)'' after ''each year''.

Subsec. (d)(2). Pub. L. 107–14, § 8(a)(15)(B), struck out ''(beginning in 1993)'' after ''each year''.

Subsec. (d)(3). Pub. L. 107–14, § 8(a)(15)(C), struck out par. (3) which read as follows: ''Not later than February 1 of each year from 1989 through 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year. The first such report shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Department during fiscal year 1988 that were procured through local contracts. The other reports under this paragraph shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Department, and by each Department medical center, during the fiscal year covered by the report that were purchased through local contracts and, in the case of each medical center at which the percentage was greater than 20 percent, an explanation of the reasons why that occurred.''

1992—Subsec. (b)(1)(B)(ii). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40 renumbered section 5025 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in par. (3)(C).

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (c). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsecs. (d), (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1988—Subsec. (d)(1). Pub. L. 100–687, § 1507(b)(1), inserted ''(beginning in 1992)'' after ''of each year''.

Subsec. (d)(2). Pub. L. 100–687, § 1507(b)(2), inserted ''(beginning in 1993)'' after ''of each year''.

Subsec. (d)(3). Pub. L. 100–687, § 1507(b)(3), added par. (3).

Subsec. (e)(1). Pub. L. 100–687, § 1507(c), substituted ''65 or 66'' for ''65, 66, or 73'' and inserted after first sentence ''Effective December 1, 1992, such term also includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73.''

EFFECTIVE DATE

Section 403(b) of Pub. L. 100–322, as amended by Pub. L. 100–687, div. B, title XV, § 1507(a), Nov. 18, 1988, 102 Stat. 4136, provided that:

''(1) Subsections (a), (b)(1), and (b)(2) of section 5025 [now 8125] of title 38, United States Code (as added by subsection (a)), shall take effect one year after the date of the enactment of this Act [May 20, 1988].

''(2) Subsection (b)(3) of such section shall apply to health-care items procured for use by the Veterans' Administration [now Department of Veterans Affairs] after September 30, 1990.''

STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS

Section 402 of Pub. L. 100–322, as amended by Pub. L. 100–687, div. B, title XV, § 1508, Nov. 18, 1988, 102 Stat. 4137, directed Administrator, not later than Oct. 1, 1989, to develop and fully implement an agency-wide plan for cost-effective standardization of health-care items procured by Veterans' Administration.

§ 8126. Limitation on prices of drugs procured by Department and certain other Federal agencies

(a) Each manufacturer of covered drugs shall enter into a master agreement with the Secretary under which—

(1) beginning January 1, 1993, the manufacturer shall make available for procurement on the Federal Supply Schedule of the General Services Administration each covered drug of the manufacturer;

(2) with respect to each covered drug of the manufacturer procured by a Federal agency described in subsection (b) on or after January 1, 1993, that is purchased under depot contracting systems or listed on the Federal Supply Schedule, the manufacturer has entered into and has in effect a pharmaceutical pricing agreement with the Secretary (or the Federal agency involved, if the Secretary delegates to the Federal agency the authority to enter into such a pharmaceutical pricing agreement) under which the price charged during the one-year period beginning on the date on which the agreement takes effect may not exceed 76 percent of the non-Federal average manufacturer price (less the amount of any additional discount required under subsection (c)) during the one-year period ending one month before such date (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period are not available, during such period as the Secretary considers appropriate), except that such price may nominally exceed such amount if found by the Secretary to be in the best interests of the Department or such Federal agencies;

(3) with respect to each covered drug of the manufacturer procured by a State home receiving funds under section 1741 of this title, the price charged may not exceed the price charged under the Federal Supply Schedule at the time the drug is procured; and

(4) unless the manufacturer meets the requirements of paragraphs (1), (2), and (3), the manufacturer may not receive payment for the purchase of drugs or biologicals from—

(A) a State plan under title XIX of the Social Security Act, except as authorized under section 1927(a)(3) of such Act,

(B) any Federal agency described in subsection (b), or

(C) any entity that receives funds under the Public Health Service Act.

(b) The Federal agencies described in this subsection are as follows:

(1) The Department.

(2) The Department of Defense.

(3) The Public Health Service, including the Indian Health Service.

(4) The Coast Guard.

(c) With respect to any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2), beginning on or after January 1, 1993, the manufacturer shall provide a discount in an amount equal to the amount by which the change in non-Federal price exceeds the amount equal to—

(1) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the last day of the month preceding the month during which the contract for the covered drug goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary considers appropriate); multiplied by

(2) the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last month of the period described in paragraph (1) and the last month preceding the month during which the contract goes into effect for which Consumer Price Index data is available.

(d) In the case of a covered drug of a manufacturer that has entered into a multi-year contract with the Secretary under subsection (a)(2) for the procurement of the drug—

(1) during any one-year period that follows the first year for which the contract is in effect, the contract price charged for the drug may not exceed the contract price charged during the preceding one-year period, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) during the 12-month period ending with the last month of such preceding one-year period for which Consumer Price Index data is available; and

(2) in applying subsection (c) to determine the amount of the discount provided with respect to the drug during a year that follows the first year for which the contract is in effect, any reference in such subsection to ''the month during which the contract goes into effect'' shall be considered a reference to the first month of such following year.

(e)(1) The manufacturer of any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2) shall—

(A) not later than 30 days after the first day of the last quarter that begins before the agreement takes effect (or, in the case of an agreement that takes effect on January 1, 1993, not later than December 4, 1992), report to the Secretary the non-Federal average manufacturer price for the drug during the one-year period that ends on the last day of the previous quarter; and

(B) not later than 30 days after the last day of each quarter for which the agreement is in effect, report to the Secretary the non-Federal average manufacturer price for the drug during such quarter.

(2) The provisions of subparagraphs (B) and (C) of section 1927(b)(3) of the Social Security Act shall apply to drugs described in paragraph (1) and the Secretary in the same manner as such provisions apply to covered outpatient drugs and the Secretary of Health and Human Services under such subparagraphs, except that references in such subparagraphs to prices or information reported or required under ''subparagraph (A)'' shall be deemed to refer to information reported under paragraph (1).

(3) In order to determine the accuracy of a drug price that is reported to the Secretary

under paragraph (1), the Secretary may audit the relevant records of the manufacturer or of any wholesaler that distributes the drug, and may delegate the authority to audit such records to the appropriate Federal agency described in subsection (b).

(4) Any information contained in a report submitted to the Secretary under paragraph (1) or obtained by the Secretary through any audit conducted under paragraph (3) shall remain confidential, except as the Secretary determines necessary to carry out this section and to permit the Comptroller General and the Director of the Congressional Budget Office to review the information provided.

(f) The Secretary shall supply to the Secretary of Health and Human Services—

(1) upon the execution or termination of any master agreement, the name of the manufacturer, and

(2) on a quarterly basis, a list of manufacturers who have entered into master agreements under this section.

(g)(1) Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on November 4, 1992.

(2) A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of this section), and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section after November 4, 1992.

(h) In this section:

(1) The term ''change in non-Federal price'' means, with respect to a covered drug that is subject to an agreement under this section, an amount equal to—

(A) the non-Federal average manufacturer price of the drug during the 3-month period that ends with the month preceding the month during which a contract goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary considers appropriate); minus

(B) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the end of the period described in subparagraph (A) (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the period described in subparagraph (A) as the Secretary considers appropriate).

(2) The term ''covered drug'' means—

(A) a drug described in section 1927(k)(7)(A)(ii) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

(B) a drug described in section 1927(k)(7)(A)(iv) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act; or

(C) any biological product identified under section 600.3 of title 21, Code of Federal Regulations.

(3) The term ''depot'' means a centralized commodity management system through which covered drugs procured by an agency of the Federal Government are—

(A) received, stored, and delivered through—

(i) a federally owned and operated warehouse system, or

(ii) a commercial entity operating under contract with such agency; or

(B) delivered directly from the commercial source to the entity using such covered drugs.

(4) The term ''manufacturer'' means any entity which is engaged in—

(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

(5) The term ''non-Federal average manufacturer price'' means, with respect to a covered drug and a period of time (as determined by the Secretary), the weighted average price of a single form and dosage unit of the drug that is paid by wholesalers in the United States to the manufacturer, taking into account any cash discounts or similar price reductions during that period, but not taking into account—

(A) any prices paid by the Federal Government; or

(B) any prices found by the Secretary to be merely nominal in amount.

(6) The term ''weighted average price'' means, with respect to a covered drug and a period of time (as determined by the Secretary) an amount equal to—

(A) the sum of the products of the average price per package unit of each quantity of the drug sold during the period and the number of package units of the drug sold during the period; divided by

(B) the total number of package units of the drug sold during the period.

(i)(1) If the Secretary modifies a multi-year contract described in subsection (d) to include a covered drug of the manufacturer that was not available for inclusion under the contract at the time the contract went into effect, the price of the drug shall be determined as follows:

(A) For the portion of the first contract year during which the drug is so included, the price of the drug shall be determined in accordance

with subsection (a)(2), except that the reference in such subsection to ''the one-year period beginning on the date the agreement takes effect'' shall be considered a reference to such portion of the first contract year.

(B) For any subsequent contract year, the price of the drug shall be determined in accordance with subsection (d), except that each reference in such subsection to ''the first year for which the contract is in effect'' shall be considered a reference to the portion of the first contract year during which the drug is included under the contract.

(2) In this subsection, the term ''contract year'' means any one-year period for which a multi-year contract described in subsection (d) is in effect.

(Added Pub. L. 102–585, title VI, § 603(a)(1), Nov. 4, 1992, 106 Stat. 4971; amended Pub. L. 103–18, § 1(a), Apr. 12, 1993, 107 Stat. 53; Pub. L. 103–446, title XII, § 1201(e)(27), (f)(6), Nov. 2, 1994, 108 Stat. 4686, 4687; Pub. L. 104–106, div. A, title VII, § 737(a), Feb. 10, 1996, 110 Stat. 383; Pub. L. 105–115, title I, § 125(b)(2)(E), Nov. 21, 1997, 111 Stat. 2325.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(4)(A), (e)(2), (g)(1), and (h)(2)(A), (B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42. Section 1927 of the Act is classified to section 1396r–8 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Public Health Service Act, referred to in subsec. (a)(4)(C), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

Enactment of this section, referred to in subsec. (g)(2), means enactment of Pub. L. 102–585, which enacted this section and was approved Nov. 4, 1992.

AMENDMENTS

1997—Subsec. (h)(2). Pub. L. 105–115 inserted ''or'' at end of subpar. (B), substituted a period for ''; or'' at end of subpar. (C), and struck out subpar. (D), which read as follows: ''insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.''

1996—Subsec. (b)(4). Pub. L. 104–106 added par. (4).

1994—Subsec. (e)(1)(A). Pub. L. 103–446, § 1201(e)(27)(A), (f)(6)(A), substituted ''December 4, 1992'' for ''30 days after the date of the enactment of this section'' and ''one-year period'' for ''1-year period''.

Subsec. (f)(2). Pub. L. 103–446, § 1201(e)(27)(B), substituted a period for '', and'' at end.

Subsec. (g)(1), (2). Pub. L. 103–446, § 1201(f)(6)(B), substituted ''November 4, 1992'' for ''the date of the enactment of this section''.

1993—Subsec. (a)(2). Pub. L. 103–18, § 1(a)(1), struck out ''preceding such date'' before ''as the Secretary considers appropriate''.

Subsec. (c). Pub. L. 103–18, § 1(a)(2), in introductory provisions, struck out ''for calendar quarters'' after ''subsection (a)(2),'', and in par. (1), struck out ''preceding the month during which the contract goes into effect'' after ''during such period'' and substituted ''multiplied by'' for ''increased by''.

Subsec. (d)(1). Pub. L. 103–18, § 1(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''during any one-year period that follows the first year for which the contract is in effect, the price charged may not exceed the price charged during the preceding one-year period, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last months of such one-year periods for which Consumer Price Index data is available; and''.

Subsec. (i). Pub. L. 103–18, § 1(a)(4), added subsec. (i).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 737(b) of Pub. L. 104–106 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if included in the enactment of section 603 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4971).''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 1(b) of Pub. L. 103–18 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as if included in the enactment of section 603 of the Veterans Health Care Act of 1992 [Pub. L. 102–585].''

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.

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

AMENDMENTS

1977—Pub. L. 95–62, § 4(a), July 5, 1977, 91 Stat. 263, substituted ''DOMICILIARY, NURSING HOME, AND HOSPITAL CARE'' for ''NURSING HOME CARE'' in subchapter heading.

§ 8131. Definitions

For the purpose of this subchapter—

(1) The veteran population of each State shall be determined on the basis of the latest figures certified by the Department of Commerce.

(2) The term ''State'' does not include any possession of the United States.

(3) The term ''construction'' means the construction of new domiciliary or nursing home buildings, the expansion, remodeling, or alteration of existing buildings for the provision of domiciliary, nursing home, adult day health, or hospital care in State homes, and the provision of initial equipment for any such buildings.

(4) The term ''cost of construction'' means the amount found by the Secretary to be necessary for a construction project, including architect fees, but excluding land acquisition costs.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 501, § 5031; amended Pub. L. 94–581, title II, § 206(b), Oct. 21, 1976, 90 Stat. 2859; Pub. L. 95–62, § 3(1), (2), July 5, 1977, 91 Stat. 262; Pub. L. 99–576, title II, § 224(d), Oct. 28, 1986, 100 Stat. 3263; renumbered § 8131, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 104–262, title III, § 342(b)(1), Oct. 9, 1996, 110 Stat. 3206.)

AMENDMENTS

1996—Par. (3). Pub. L. 104–262 inserted ''adult day health,'' before ''or hospital care''.

1991—Pub. L. 102–40 renumbered section 5031 of this title as this section.

Par. (4). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

1986—Pub. L. 99–576 redesignated pars. (a) to (d) as pars. (1) to (4), respectively.

1977—Par. (c). Pub. L. 95–62, § 3(1), inserted construction of new domiciliary buildings, expansion, remodeling, or alteration of existing domiciliary and hospital buildings, and provision of initial equipment for any such buildings to definition of ''construction''.

Par. (d). Pub. L. 95–62, § 3(2), struck out provisions which had limited definition of ''cost of construction'' to the cost of construction of nursing home facilities.

1976—Par. (a). Pub. L. 94–581 substituted ''veteran'' for ''war veteran''.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 224(e) of Pub. L. 99–576 provided that: ''The amendments made by this section [amending this section and sections 5033 and 5035 [now 8133 and 8135] of this title] shall take effect on July 1, 1987.''

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95–62 provided that:

''(a) Except as provided in subsection (b) of this section, the amendments made by this Act [amending this section and sections 5032 to 5036 [now 8132 to 8136] of this title and repealing section 644 of this title] shall be effective October 1, 1977.

''(b)(1) The terms and conditions of any grant made prior to October 1, 1977, under section 644 of title 38, United States Code [former section 644 of this title], and regulations prescribed thereunder, shall remain in full force and effect unless modified, by the mutual agreement of the parties, in accordance with the provisions of subchapter III of chapter 81 of such title, and regulations prescribed thereunder, in effect after September 30, 1977.

''(2) With respect to any grant made prior to October 1, 1977, under subchapter III of chapter 81 of such title, the Administrator of Veterans' Affairs shall, upon application of a grantee, modify the terms and conditions of such grant to comply with the provisions of such subchapter as amended by this Act, and regulations prescribed thereunder, and shall promptly notify each such grantee of the grantee's right to request such modification.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

SHORT TITLE OF 1977 AMENDMENT

For short title of Pub. L. 95–62 as the ''State Veterans' Home Assistance Improvement Act of 1977'', see section 1 of Pub. L. 95–62, set out as a Short Title of 1977 Amendment note under section 101 of this title.

§ 8132. Declaration of purpose

The purpose of this subchapter is to assist the several States to construct State home facilities (or to acquire facilities to be used as State home facilities) for furnishing domiciliary or nursing home care to veterans, and to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing home, adult day health, or hospital care to veterans in State homes.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 501, § 5032; amended Pub. L. 94–581, title II, § 206(b), Oct. 21, 1976, 90 Stat. 2859; Pub. L. 95–62, § 3(3), July 5, 1977, 91 Stat. 262; Pub. L. 98–528, title I, § 105(1), Oct. 19, 1984, 98 Stat. 2689; renumbered § 8132, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 104–262, title III, § 342(b)(2), Oct. 9, 1996, 110 Stat. 3206.)

AMENDMENTS

1996—Pub. L. 104–262 inserted ''adult day health,'' before ''or hospital care''.

1991—Pub. L. 102–40 renumbered section 5032 of this title as this section.

1984—Pub. L. 98–528 inserted ''(or to acquire facilities to be used as State home facilities) after ''State home facilities''.

1977—Pub. L. 95–62 inserted references to the construction of State home facilities for furnishing of domiciliary care and to the expansion, remodeling, and alteration of existing buildings for furnishing domiciliary, nursing home, or hospital care to veterans in State homes.

1976—Pub. L. 94–581 substituted ''veterans'' for ''war veterans''.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95–62, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8133. Authorization of appropriations

(a) There are hereby authorized to be appropriated such sums as are necessary to carry out this subchapter. Sums appropriated pursuant to this section shall be used for making grants to States which have submitted, and have had approved by the Secretary, applications for carrying out the purposes and meeting the requirements of this subchapter.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until expended.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 501, § 5033; amended Pub. L. 89–311, § 7(a), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 90–432, § 2, July 26, 1968, 82 Stat. 448; Pub. L. 93–82, title IV, § 403(c), Aug. 2, 1973, 87 Stat. 196; Pub. L. 95–62, § 3(4), July 5, 1977, 91 Stat. 262; Pub. L. 96–151, title I, § 101(a), Dec. 20, 1979, 93 Stat. 1092; Pub. L. 97–251, § 8, Sept. 8, 1982, 96 Stat. 716; Pub. L. 99–576, title II, § 224(a), Oct. 28, 1986, 100 Stat. 3262; Pub. L. 101–110, § 1(c), Oct. 6, 1989, 103 Stat. 682; Pub. L. 101–237, title II, § 201(b), Dec. 18, 1989, 103 Stat. 2066; renumbered § 8133, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–585, title IV, § 402, Nov. 4, 1992, 106 Stat. 4954.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–585 struck out before period at end of first sentence ''through September 30, 1992''.

1991—Pub. L. 102–40 renumbered section 5033 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

1989—Subsec. (a). Pub. L. 101–237 substituted ''September 30, 1992'' for ''September 30, 1990''.

Pub. L. 101–110 substituted ''1990'' for ''1989''.

1986—Subsec. (a). Pub. L. 99–576 amended first sentence generally. Prior to amendment, first sentence read as follows: ''There is hereby authorized to be appropriated $15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years.''

1982—Subsec. (a). Pub. L. 97–251 substituted ''for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years'' for ''for the fiscal year ending September 30, 1978, a like sum for each of the two succeeding fiscal years, and such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982''.

1979—Subsec. (a). Pub. L. 96–151 inserted provisions extending authorization of a like sum from one to two years, and provisions authorizing to be appropriated such sums as necessary for the fiscal years ending Sept. 30, 1981, and Sept. 30, 1982.

1977—Subsec. (a). Pub. L. 95–62 substituted ''$15,000,000 for the fiscal year ending September 30, 1978, and a like sum for the succeeding fiscal year'' for ''$5,000,000 for the fiscal year ending June 30, 1965, and a like sum for each of the fourteen succeeding fiscal years'' and ''applications for carrying out the purposes and meeting the requirements of this subchapter'' for ''applications for carrying out the purposes of section 5032 of this title''.

Subsec. (b). Pub. L. 95–62 substituted ''shall remain available until expended'' for ''shall remain available until the end of the second fiscal year following the fiscal year for which they are appropriated''.

1973—Subsec. (a). Pub. L. 93–82 substituted ''fourteen succeeding fiscal years'' for ''nine succeeding fiscal years''.

1968—Subsec. (a). Pub. L. 90–432 substituted ''nine succeeding fiscal years'' for ''four succeeding fiscal years''.

1965—Subsec. (c). Pub. L. 89–311 repealed subsec. (c) which limited to not more than 10 per centum of the funds appropriated pursuant to subsec. (a) of this section the moneys which could be used to assist in the construction of nursing home care facilities in any one State.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 3(a) of Pub. L. 101–110 provided that: ''The provisions of and amendments made by this Act [amending this section and enacting provisions set out as notes under sections 1712, 1720B, and 3729 of this title and under section 6302 of Title 5, Government Organization and Employees] shall take effect as of October 1, 1989.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–576 effective July 1, 1987, see section 224(e) of Pub. L. 99–576, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95–62, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

§ 8134. General regulations

(a)(1) The Secretary shall prescribe regulations for the purposes of this subchapter.

(2) In those regulations, the Secretary shall prescribe for each State the number of nursing home and domiciliary beds for which assistance under this subchapter may be furnished. Such regulations shall be based on projected demand for such care 10 years after the date of the enactment of the Veterans Millennium Health Care and Benefits Act by veterans who at such time are 65 years of age or older and who reside in that State. In determining such projected demand, the Secretary shall take into account travel distances for veterans and their families.

(3)(A) In those regulations, the Secretary shall establish criteria under which the Secretary shall determine, with respect to an application for assistance under this subchapter for a project described in subparagraph (B) which is from a State that has a need for additional beds as determined under subsections (a)(2) and (d)(1), whether the need for such beds is most aptly characterized as great, significant, or limited. Such criteria shall take into account the availability of beds already operated by the Secretary and other providers which appropriately serve the needs which the State proposes to meet with its application.

(B) This paragraph applies to a project for the construction or acquisition of a new State home facility, a project to increase the number of beds available at a State home facility, and a project to replace beds at a State home facility.

(4) The Secretary shall review and, as necessary, revise regulations prescribed under paragraphs (2) and (3) not less often than every four years.

(b) The Secretary shall prescribe the following by regulation:

(1) General standards of construction, repair, and equipment for facilities constructed or acquired with assistance received under this subchapter.

(2) General standards for the furnishing of care in facilities which are constructed or acquired with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Secretary pursuant to section 1720(b) of this title.

(c) The Secretary may inspect any State facility constructed or acquired with assistance received under this subchapter at such times as the Secretary deems necessary to insure that such facility meets the standards prescribed under subsection (b)(2).

(d)(1) In prescribing regulations to carry out this subchapter, the Secretary shall provide that in the case of a State that seeks assistance under this subchapter for a project described in subsection (a)(3)(B), the determination of the unmet need for beds for State homes in that State shall be reduced by the number of beds in all previous applications submitted by that State under this subchapter, including beds which have not been recognized by the Secretary under section 1741 of this title.

(2)(A) Financial assistance under this subchapter for a renovation project may only be

provided for a project for which the total cost of construction is in excess of $400,000 (as adjusted from time-to-time in such regulations to reflect changes in costs of construction).

(B) For purposes of this paragraph, a renovation project is a project to remodel or alter existing buildings for which financial assistance under this subchapter may be provided and does not include maintenance and repair work which is the responsibility of the State.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 502, § 5034; amended Pub. L. 89–311, § 7(b), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93–82, title IV, § 403(d), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94–581, title I, § 107(b), title II, § 206(b), Oct. 21, 1976, 90 Stat. 2847, 2859; Pub. L. 95–62, § 3(5), (6), July 5, 1977, 91 Stat. 262; Pub. L. 96–330, title IV, § 404, Aug. 26, 1980, 94 Stat. 1052; Pub. L. 98–528, title I, § 105(2), Oct. 19, 1984, 98 Stat. 2689; renumbered § 8134, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(f)(6), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–117, title II, § 207(a), Nov. 30, 1999, 113 Stat. 1564.)

REFERENCES IN TEXT

The date of the enactment of the Veterans Millennium Health Care and Benefits Act, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 106–117, which was approved Nov. 30, 1999.

AMENDMENTS

1999—Subsecs. (a), (b). Pub. L. 106–117, § 207(a)(1)–(3), added subsec. (a), redesignated former subsec. (a) as (b) and struck out introductory provisions and par. (1) which authorized Secretary to prescribe number of beds needed for adequate nursing home care of veterans, and redesignated former pars. (2) and (3) of subsec. (a) as pars. (1) and (2), respectively, of subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–117, § 207(a)(1), (4), redesignated subsec. (b) as (c) and substituted ''subsection (b)(2)'' for ''subsection (a)(3)''.

Subsec. (d). Pub. L. 106–117, § 207(a)(5), added subsec. (d).

1991—Pub. L. 102–40 renumbered section 5034 of this title as this section.

Pub. L. 102–83, § 5(c)(1), substituted ''1720(b)'' for ''620(b)'' in subsec. (a)(3).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–54 amended section as in effect immediately before the enactment of Pub. L. 102–40 by inserting ''(a)'' before ''Within six months'', substituting ''any amendment to this section'' for ''this section or any amendment to it'', designating sentence at end of par. (3) as subsec. (b), realigning such sentence, and substituting ''the standards prescribed under subsection (a)(3)'' for ''such standards'' at end of such sentence.

1984—Pars. (2), (3). Pub. L. 98–528 inserted ''or acquired'' after ''constructed'' wherever appearing.

1980—Par. (1). Pub. L. 96–330 struck out '', which number shall not exceed two and one-half beds per thousand veteran population in the case of any State'' after ''residing in each State''.

1977—Par. (2). Pub. L. 95–62, § 3(5), substituted ''repair, and equipment for facilities constructed'' for ''repairs, modernization, alteration, and equipment for facilities for furnishing nursing home care which are constructed''.

Par. (3). Pub. L. 95–62, § 3(6), substituted ''furnishing of care'' for ''furnishing of nursing home care''.

1976—Pub. L. 94–581 substituted ''date of enactment of this section or any amendment to it with respect to such amendment'' for ''date of enactment of this subchapter'' in provisions preceding par. (1), substituted ''veterans'' and ''veteran'' for ''war veterans'' and ''war veteran'', respectively, in par. (1), and added par. (3).

1973—Par. (1). Pub. L. 93–82 substituted ''two and one-half beds'' for ''one and one-half beds''.

1965—Par. (1). Pub. L. 89–311 substituted ''one and one-half beds'' for ''one-half bed''.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95–62, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

REGULATIONS

Pub. L. 106–117, title II, § 207(d), Nov. 30, 1999, 113 Stat. 1567, provided that: ''The Secretary [of Veterans Affairs] shall prescribe the initial regulations under subsection (a) of section 8134 of title 38, United States Code, as added by subsection (a), not later than April 30, 2000.''

TRANSITION PROVISIONS

Provisions of this section in effect on Nov. 10, 1999, to continue in effect after that date with respect to certain applications described in section 8135(b)(2)(A) of this title that are identified in section 207(c)(2) of Pub. L. 106–117, see section 207(c) of Pub. L. 106–117, set out as a note under section 8135 of this title.

§ 8135. Applications with respect to projects; payments

(a) Any State desiring to receive assistance for a project for construction of State home facilities (or acquisition of a facility to be used as a State home facility) must submit to the Secretary an application. Such application shall set forth the following:

(1) The amount of the grant requested with respect to such project which may not exceed 65 percent of the estimated cost of construction (or of the estimated cost of facility acquisition and construction) of such project.

(2) A description of the site for such project.

(3) Plans and specifications for such project in accordance with regulations prescribed by the Secretary pursuant to section 8134(a)(2) of this title.

(4) Reasonable assurance that upon completion of such project the facilities will be used principally to furnish to veterans the level of care for which such application is made and that not more than 25 percent of the bed occupancy at any one time will consist of patients who are not receiving such level of care as veterans.

(5) Reasonable assurance that title to such site is or will be vested solely in the applicant,

a State home, or another agency or instrumentality of the State.

(6) Reasonable assurance that adequate financial support will be available for the construction of the project (or for facility acquisition and construction of the project) by July 1 of the fiscal year for which the application is approved and for its maintenance and operation when complete.

(7) Reasonable assurance that the State will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and give the Secretary, upon demand, access to the records upon which such information is based.

(8) Reasonable assurance that the rates of pay for laborers and mechanics engaged in construction of the project will be not less than the prevailing local wage rates for similar work as determined in accordance with sections 3141–3144, 3146, and 3147 of title 40.

(9) In the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.

(b)(1) Any State seeking to receive assistance under this subchapter for a project that would involve construction or acquisition of either nursing home or domiciliary facilities shall include with its application under subsection (a) the following:

(A) Documentation (i) that the site for the project is in reasonable proximity to a sufficient concentration and population of veterans who are 65 years of age and older, and (ii) that there is a reasonable basis to conclude that the facilities when complete will be fully occupied.

(B) A financial plan for the first three years of operation of such facilities.

(C) A five-year capital plan for the State home program for that State.

(2) Failure to provide adequate documentation under paragraph (1)(A) or to provide an adequate financial plan under paragraph (1)(B) shall be a basis for disapproving the application.

(c)(1) Upon receipt of an application under subsection (a) for financial assistance under this subchapter, the Secretary—

(A) shall determine whether the application meets the requirements of this section and of the regulations prescribed under section 8134 of this title;

(B) shall notify the State submitting the application whether the application conforms with those requirements and, if it does not, of the actions necessary to bring the application into conformance with those requirements; and

(C) shall determine the priority of the project described in the application in accordance with the provisions of this subsection.

(2) Subject to paragraphs (3) and (5)(C) of this subsection, the Secretary shall accord priority to applications in the following order:

(A) An application from a State that has made sufficient funds available for the project for which the grant is requested so that such project may proceed upon approval of the grant without further action required by the State to make such funds available for such purpose.

(B) An application from a State for a project at an existing facility to remedy a condition or conditions that have been cited by an accrediting institution, by the Secretary, or by a local licensing or approving body of the State as being threatening to the lives or safety of the patients in the facility.

(C) An application from a State that has not previously applied for award of a grant under this subchapter for construction or acquisition of a State nursing home.

(D) An application for construction or acquisition of a nursing home or domiciliary from a State that the Secretary determines, in accordance with regulations under this subchapter, has a great need for the beds to be established at such home or facility.

(E) An application from a State for renovations to a State home facility other than renovations described in subparagraph (B).

(F) An application for construction or acquisition of a nursing home or domiciliary from a State that the Secretary determines, in accordance with regulations under this subchapter, has a significant need for the beds to be established at such home or facility.

(G) An application that meets other criteria as the Secretary determines appropriate and has established in regulations.

(H) An application for construction or acquisition of a nursing home or domiciliary from a State that the Secretary determines, in accordance with regulations under this subchapter, has a limited need for the beds to be established at such home or facility.

(3) In according priorities to projects under paragraph (2) of this subsection, the Secretary—

(A) may not accord any priority to a project for the construction or acquisition of a hospital; and

(B) may not accord any priority to a project which would expand a State's capacity to furnish hospital care in a State home.

(4) The Secretary shall establish a list of approved projects (including projects that have been conditionally approved under paragraph (6) of this subsection), in the order of their priority, as of August 15 of each year. The Secretary shall award grants in the order of their priority on the list during the fiscal year beginning on October 1 of the calendar year in which the list was made.

(5)(A) The Secretary shall defer approval of an application that otherwise meets the requirements of this section if the State submitting the application does not, by the July 1 deadline (as defined in subparagraph (D) of this paragraph), demonstrate to the satisfaction of the Secretary that the State has provided adequate financial support for construction of the project.

(B) In a case in which approval of an application is deferred under subparagraph (A) of this paragraph, the Secretary shall select for award of a grant or grants under this subsection an application or applications which would not have

been approved during the fiscal year but for the deferral and to which the Secretary accords the highest priority under paragraph (2) of this subsection.

(C) An application deferred in accordance with the requirements of this paragraph shall be accorded priority in any subsequent fiscal year ahead of applications that had not been approved before the first day of the fiscal year in which the deferred application was first approved.

(D) For the purposes of this paragraph, the term ''July 1 deadline'' means July 1 of the fiscal year in which the State is notified by the Secretary of the availability of funding for a grant for such project.

(6)(A) The Secretary may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Secretary determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 180 days after the date of the conditional approval, specified by the Secretary.

(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Secretary under subparagraph (A) of this paragraph, the Secretary shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application. In the event the Secretary rescinds conditional approval of a project under this subparagraph, the Secretary may not further obligate funds for the project during the fiscal year in which the Secretary rescinds such approval.

(7)(A) Subject to subparagraph (B) of this paragraph, the Secretary may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Secretary determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Secretary based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Secretary determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.

(d) No application submitted to the Secretary under this section shall be disapproved until the Secretary has afforded the applicant notice and an opportunity for a hearing.

(e) The amount of a grant under this subchapter shall be paid to the applicant or, if designated by the applicant, the State home for which such project is being carried out or any other agency or instrumentality of the applicant. Such amount shall be paid, in advance or by way of reimbursement, and in such installments consistent with the progress of the project as the Secretary may determine and certify for payment to the Secretary of the Treasury. Funds paid under this section for an approved project shall be used solely for carrying out such project as so approved.

(f) Any amendment of any application, whether or not approved, shall be subject to approval in the same manner as an original application.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 502, § 5035; amended Pub. L. 89–311, § 7(a), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93–82, title IV, § 403(e), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94–581, title II, §§ 206(b), 210(e)(10), Oct. 21, 1976, 90 Stat. 2859, 2865; Pub. L. 95–62, § 3(7)–(12), July 5, 1977, 91 Stat. 262, 263; Pub. L. 97–295, § 4(92), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98–528, title I, § 105(3), Oct. 19, 1984, 98 Stat. 2689; Pub. L. 99–166, title II, § 205, Dec. 3, 1985, 99 Stat. 953; Pub. L. 99–576, title II, § 224(b), (c), Oct. 28, 1986, 100 Stat. 3262, 3263; Pub. L. 100–322, title II, § 206, May 20, 1988, 102 Stat. 513; renumbered § 8135 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(f)(7), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–585, title IV, §§ 403(a), 404(a), Nov. 4, 1992, 106 Stat. 4954; Pub. L. 103–446, title XII, § 1201(d)(18), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104–262, title III, § 342(b)(3), Oct. 9, 1996, 110 Stat. 3206; Pub. L. 106–117, title II, § 207(b), Nov. 30, 1999, 113 Stat. 1565; Pub. L. 107–217, § 3(j)(4), Aug. 21, 2002, 116 Stat. 1300.)

AMENDMENTS

2002—Subsec. (a)(8). Pub. L. 107–217 substituted ''sections 3141–3144, 3146, and 3147 of title 40'' for ''the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) (known as the Davis-Bacon Act)''.

1999—Subsec. (a). Pub. L. 106–117, § 207(b)(1), in introductory provisions, substituted ''set forth the following:'' for ''set forth—'', in pars. (1) to (7), capitalized the first letter of the first word and substituted a period for the comma at the end, in par. (8), capitalized the first letter of the first word and substituted a period for '', and'' at the end, and in par. (9), capitalized the first letter of the first word.

Subsec. (b). Pub. L. 106–117, § 207(b)(3), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–117, § 207(b)(2), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 106–117, § 207(b)(4)(A), in introductory provisions, substituted ''under subsection (a) for financial assistance under this subchapter'' for ''for a grant under subsection (a) of this section''.

Subsec. (c)(2)(A). Pub. L. 106–117, § 207(b)(4)(B)(i), struck out ''the construction or acquisition of'' after ''sufficient funds available for''.

Subsec. (c)(2)(B) to (H). Pub. L. 106–117, § 207(b)(4)(B)(ii), added subpars. (B) to (H) and struck out former subpars. (B) to (D) which read as follows:

''(B) An application from a State that does not have a State home facility constructed or acquired with assistance under this subchapter (or for which such a grant has been made).

''(C) An application from a State which the Secretary determines, in accordance with criteria and procedures specified in regulations which the Secretary shall prescribe, has a greater need for nursing home or domiciliary beds or adult day health care facilities than other States from which applications are received.

''(D) An application that meets such other criteria as the Secretary determines are appropriate and has established in regulations.''

Subsec. (c)(3)(A). Pub. L. 106–117, §207(b)(4)(C), added subpar. (A) and struck out former subpar. (A) which read as follows: ''shall accord priority only to projects which would involve construction or acquisition of either nursing home or domiciliary buildings or construction (other than new construction) of adult day health care buildings; and''.

Subsecs. (d) to (f). Pub. L. 106–117, §207(b)(2), redesignated subsecs. (c) to (e) as (d) to (f), respectively.

1996—Subsec. (b)(2)(C). Pub. L. 104–262, §342(b)(3)(A), inserted ''or adult day health care facilities'' after ''domiciliary beds''.

Subsec. (b)(3)(A). Pub. L. 104–262, §342(b)(3)(B), inserted ''or construction (other than new construction) of adult day health care buildings'' before semicolon.

1994—Subsec. (a)(3). Pub. L. 103–446 substituted ''section 8134(a)(2)'' for ''section 8134(2)''.

1992—Subsec. (b)(6)(A). Pub. L. 102–585, §403(a), substituted ''180 days'' for ''90 days''.

Subsec. (b)(6)(B). Pub. L. 102–585, §404(a), inserted at end ''In the event the Secretary rescinds conditional approval of a project under this subparagraph, the Secretary may not further obligate funds for the project during the fiscal year in which the Secretary rescinds such approval.''

1991—Pub. L. 102–40, §402(b)(1), renumbered section 5035 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–54 amended subsec. (a) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''Any State'' for ''After regulations have been prescribed by the Administrator under section 5034 of this title, any State''.

Pub. L. 102–40, §402(d)(1), substituted ''8134(2)'' for ''5034(2)'' in par. (3).

Subsec. (b). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(1)(A). Pub. L. 102–40, §402(d)(1), substituted ''8134'' for ''5034''.

Subsecs. (c), (d). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1988—Subsec. (b)(4). Pub. L. 100–322, §206(a), (b)(1), inserted ''(including projects that have been conditionally approved under paragraph (6) of this subsection)'' after ''projects'' and substituted ''August 15'' for ''July 1''.

Subsec. (b)(6), (7). Pub. L. 100–322, §206(b)(2), added pars. (6) and (7).

1986—Subsec. (b). Pub. L. 99–576, §224(b), amended subsec. (b) generally, substituting provisions consisting of pars. (1) to (5) for former provisions consisting of pars. (1) and (2).

Subsec. (d). Pub. L. 99–576, §224(c), struck out par. (1) designation, substituted ''The amount of a grant under this subchapter shall be paid'' for ''Upon approving an application under this section, the Administrator shall certify to the Secretary of the Treasury the amount of the grant so approved, but in no event an amount greater than 65 percent of the estimated cost of construction (or of the estimated cost of facility acquisition and construction) of the project, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment'' and struck out par. (2) which read as follows: ''No one State may receive in any fiscal year in the aggregate under this subchapter more than one-third of the amount appropriated for carrying out this subchapter in such fiscal year.''

1985—Subsec. (a)(6). Pub. L. 99–166, §205(a), inserted ''by July 1 of the fiscal year for which the application is approved''.

Subsec. (b). Pub. L. 99–166, §205(b), designated existing provisions as par. (1), redesignated cls. (1) to (4) as (A) to (D), respectively, and added par. (2).

1984—Subsec. (a). Pub. L. 98–528, §105(3)(A), inserted ''(or acquisition of a facility to be used as a State home facility)'' after ''State home facilities'' in provisions preceding par. (1).

Subsec. (a)(1). Pub. L. 98–528, §105(3)(B), inserted ''(or of the estimated cost of facility acquisition and construction)'' after ''cost of construction''.

Subsec. (a)(6). Pub. L. 98–528, §105(3)(C), inserted ''(or for facility acquisition and construction of the project)'' after ''construction of the project''.

Subsec. (a)(8). Pub. L. 98–528, §105(3)(D), substituted ''the Act of March 3, 1931 (40 U.S.C. 276a—276a–5)'' for ''sections 276a through 276a–5 of title 40''.

Subsec. (a)(9). Pub. L. 98–528, §105(3)(E), added par. (9).

Subsec. (b)(2). Pub. L. 98–528, §105(3)(F), inserted ''(or of the estimated cost of facility acquisition and construction)'' after ''cost of construction''.

Subsec. (b)(4). Pub. L. 98–528, §105(3)(G), substituted ''the carrying out of such project'' for ''the construction of such project''.

Subsec. (d)(1). Pub. L. 98–528, §105(3)(H), inserted ''(or of the estimated cost of facility acquisition and construction)'' after ''cost of construction'' in first sentence, substituted ''carried out'' for ''constructed'' in second sentence, substituted ''the project'' for ''construction'' in third sentence, struck out ''the construction of'' before ''an approved project'' in fourth sentence.

1982—Subsecs. (a)(1), (4), (b)(2), (d)(1). Pub. L. 97–295 substituted ''percent'' for ''per centum'' wherever appearing.

1977—Subsec. (a). Pub. L. 95–62, §3(7), (8), substituted ''State home facilities must submit'' for ''State home facilities for furnishing nursing home care must submit'' in provisions preceding par. (1) and, ''to furnish to veterans the level of care for which such application is made and that not more than 25 per centum of the bed occupancy at any one time will consist of patients who are not receiving such level of care as war veterans'' for ''to furnish nursing home care to veterans and that not more than 10 per centum of the bed occupancy at any one time will consist of patients who are not receiving nursing home care as veterans'' in par. (4).

Subsec. (b)(3). Pub. L. 95–62, §3(9), substituted ''reasonable assurances under subsection (a) of this section as the Administrator'' for ''reasonable assurances as to use, title, financial support, reports and access to records, and payment of prevailing rates of wages, as the Administrator''.

Subsec. (c). Pub. L. 95–62, §3(10), substituted ''afforded the applicant notice and an opportunity for a hearing'' for ''afforded the applicant an opportunity for a hearing''.

Subsec. (d). Pub. L. 95–62, §3(11), designated existing provisions as par. (1), substituted ''the Administrator shall certify to the Secretary of the Treasury the amount of the grant so approved'' for ''the Administrator shall certify to the Secretary of the Treasury the amount of the grant requested with respect to such project in such application'', and added par. (2).

Subsec. (e). Pub. L. 95–62, §3(12), substituted ''amendment of any application, whether or not approved,'' for ''amendment of any approved application''.

1976—Subsec. (a)(4). Pub. L. 94–581, §206(b), substituted ''veterans'' for ''war veterans'' in two places.

Subsec. (b). Pub. L. 94–581, §§206(b), 210(e)(10), substituted ''the Administrator'' for ''he'' in provisions preceding par. (1) and ''veterans'' for ''war veterans'' in par. (4).

1973—Subsecs. (a)(1), (b)(2), (d). Pub. L. 93–82 substituted ''65 per centum'' for ''50 per centum''.

1965—Subsec. (b). Pub. L. 89–311 repealed par. (3) which placed a limit of 10 per centum of the funds appropriated for any fiscal year pursuant to section 5033(a) of this title upon the amount which could be used to assist in the construction of facilities in any one state, and redesignated pars. (4) and (5) as pars. (3) and (4), respectively.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 403(b) of Pub. L. 102–585 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to projects that are conditionally approved after September 30, 1992.''

Section 404(b) of Pub. L. 102–585 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to rescissions of conditional approval

of projects after the date of the enactment of this Act [Nov. 4, 1992].''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–576 effective July 1, 1987, see section 224(e) of Pub. L. 99–576, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95–62, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

REGULATIONS

Section 224(f) of Pub. L. 99–576 provided that: ''The Administrator of Veterans' Affairs shall prescribe regulations not later than April 1, 1987, to implement the amendments made by this section [amending this section and sections 5031 and 5033 [now 8131 and 8133] of this title].''

TRANSITION PROVISIONS

Pub. L. 106–117, title II, § 207(c), Nov. 30, 1999, 113 Stat. 1566, provided that:

''(1) The provisions of sections 8134 and 8135 of title 38, United States Code, as in effect on November 10, 1999, shall continue in effect after that date with respect to applications described in section 8135(b)(2)(A) of such title, as in effect on that date, that are identified in paragraph (2) (and to projects and grants pursuant to those applications). The Secretary [of Veterans Affairs] shall accord priority among those applications in the order listed in paragraph (2).

''(2) Applications covered by paragraph (1) are the following:

''(A) Any application for a fiscal year 1999 priority one project.

''(B) Any application for a fiscal year 2000 priority one project that was submitted by a State that (i) did not receive grant funds from amounts appropriated for fiscal year 1999 under the State home grant program, and (ii) does not have any fiscal year 1999 priority one projects.

''(3) For purposes of this subsection—

''(A) the term 'fiscal year 1999 priority one project' means a project on the list of approved projects established by the Secretary on October 29, 1998, under section 8135(b)(4) of title 38, United States Code, as in effect on that date that (pursuant to section 8135(b)(2)(A) of that title) is in the grouping of projects on that list designated as Priority Group 1;

''(B) the term 'fiscal year 2000 priority one project' means a project on the list of approved projects established by the Secretary on November 3, 1999, under section 8135(b)(4) of title 38, United States Code, as in effect on that date that (pursuant to section 8135(b)(2)(A) of that title) is in the grouping of projects on that list designated as Priority Group 1; and

''(C) the term 'State home grant program' means the grant program under subchapter III of chapter 81 of title 38, United States Code.''

§ 8136. Recapture provisions

(a) If, within the 20-year period beginning on the date of the approval by the Secretary of the final architectural and engineering inspection of any project with respect to which a grant has been made under this subchapter (except that the Secretary, pursuant to regulations which the Secretary shall prescribe, may at the time of such grant provide for a shorter period than 20, but not less than seven, years, based on the magnitude of the project and the grant amount involved, in the case of the acquisition, expansion, remodeling, or alteration of existing facilities), the facilities covered by the project cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing domiciliary, nursing home, or hospital care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 percent of the then value of such project (but in no event an amount greater than the amount of assistance provided under this subchapter), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facilities are situated.

(b) The establishment and operation by the Secretary of an outpatient clinic in facilities described in subsection (a) shall not constitute grounds entitling the United States to any recovery under that subsection.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 503, § 5036; amended Pub. L. 93–82, title IV, § 403(f), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94–581, title II, § 206(b), Oct. 21, 1976, 90 Stat. 2859; Pub. L. 95–62, § 3(13), July 5, 1977, 91 Stat. 263; Pub. L. 97–295, § 4(92), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98–528, title I, § 105(4), Oct. 19, 1984, 98 Stat. 2690; renumbered § 8136, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–585, title IV, § 405, Nov. 4, 1992, 106 Stat. 4954; Pub. L. 106–419, title II, § 222, Nov. 1, 2000, 114 Stat. 1845.)

AMENDMENTS

2000—Pub. L. 106–419 designated existing provisions as subsec. (a) and added subsec. (b).

1992—Pub. L. 102–585 substituted ''If, within the 20-year period beginning on the date of the approval by the Secretary of the final architectural and engineering inspection of any project'' for ''If, within 20 years after completion of any project'' and ''the facilities covered by the project cease'' for ''such facilities cease''.

1991—Pub. L. 102–40 renumbered section 5036 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places.

1984—Pub. L. 98–528 struck out ''for construction'' after ''completion of any project''; inserted ''acquisition,'' after ''in the case of the''; substituted ''value of such project'' for ''value of such construction''; struck out ''for such construction'' after ''assistance provided for'', which amendment was executed by striking out ''for such construction'' after ''assistance provided'' as the probable intent of Congress, because ''for'' appeared only once after ''assistance provided''; and substituted ''20'' for ''twenty'' in two places.

1982—Pub. L. 97–295 substituted ''percent'' for ''per centum''.

1977—Pub. L. 95–62 substituted ''If, within twenty years after completion of any project for construction with respect to which a grant has been made under this subchapter (except that the Administrator, pursuant to regulations which the Administrator shall prescribe, may at the time of such grant provide for a shorter period than twenty, but not less than seven, years, based on the magnitude of the project and the grant amount involved, in the case of the expansion, remodeling, or alteration of existing facilities), such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing domiciliary, nursing home, or hospital care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 per centum of the then value of such construction (but in no event an amount greater than the amount of assistance provided for such construction under this subchapter)'' for ''If, within twenty years after completion of any project for construction of facilities for furnishing nursing home care with respect to which a grant has been made under this subchapter, such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for furnishing nursing home care to veterans, the United States shall be entitled to recover from the State which was the recipient of the grant under this subchapter, or from the then owner of such facilities, 65 per centum of the then value of such facilities''.

1976—Pub. L. 94–581 substituted ''veterans'' for ''war veterans''.

1973—Pub. L. 93–82 substituted ''65 per centum'' for ''50 per centum''.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95–62, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

§ 8137. State control of operations

Except as otherwise specifically provided, nothing in this subchapter shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any State home for which facilities are constructed or acquired with assistance received under this subchapter.

(Added Pub. L. 88–450, § 4(a), Aug. 19, 1964, 78 Stat. 503, § 5037; amended Pub. L. 98–528, title I, § 105(5), Oct. 19, 1984, 98 Stat. 2690; renumbered § 8137, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5037 of this title as this section.

1984—Pub. L. 98–528 inserted ''or acquired'' after ''constructed''.

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

§ 8151. Statement of congressional purpose

It is the purpose of this subchapter to strengthen the medical programs at Department facilities and improve the quality of health care provided veterans under this title by authorizing the Secretary to enter into agreements with health-care providers in order to share health-care resources with, and receive health-care resources from, such providers while ensuring no diminution of services to veterans.

(Added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1373, § 5051; amended Pub. L. 101–366, title II, § 202(a), Aug. 15, 1990, 104 Stat. 438; renumbered § 8151, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–210, § 3(a), Dec. 20, 1993, 107 Stat. 2497; Pub. L. 104–262, title III, § 301(a), Oct. 9, 1996, 110 Stat. 3191.)

AMENDMENTS

1996—Pub. L. 104–262 amended section generally. Prior to amendment, section read as follows: ''It is the purpose of this subchapter to improve the quality of hospital care and other medical service provided veterans under this title, by authorizing the Secretary to enter into agreements with medical schools, health-care facilities, and research centers throughout the country in order to receive from and share with such medical schools, health-care facilities, and research centers the most advanced medical techniques and information, as well as certain specialized medical resources which otherwise might not be feasibly available or to effectively utilize other medical resources with the surrounding medical community, without diminution of services to veterans. Among other things, it is intended, by these means, to strengthen the medical programs at those Department hospitals which are located in small cities or rural areas and thus are remote from major medical centers. It is further the purpose of this subchapter to improve the provision of care to veterans under this title by authorizing the Secretary to enter into agreements with State veterans facilities for the sharing of health-care resources.''

1993—Pub. L. 103–210 inserted at end ''It is further the purpose of this subchapter to improve the provision of care to veterans under this title by authorizing the Secretary to enter into agreements with State veterans facilities for the sharing of health-care resources.''

1991—Pub. L. 102–40 renumbered section 5051 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

1990—Pub. L. 101–366 substituted ''health-care facilities,'' for ''hospitals,'' in two places.

§ 8152. Definitions

For the purposes of this subchapter—

(1) The term ''health-care resource'' includes hospital care and medical services (as those terms are defined in section 1701 of this title), services under sections 1782 and 1783 of this title, any other health-care service, and any health-care support or administrative resource.

(2) The term ''health-care providers'' includes health-care plans and insurers and any organizations, institutions, or other entities or individuals who furnish health-care resources.

(3) The term ''hospital'', unless otherwise specified, includes any Federal, State, local, or other public or private hospital.

(Added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1373, § 5052; renumbered § 8152, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102–54, § 14(f)(8), June 13, 1991, 105 Stat. 288; Pub. L. 103–210, § 3(b), Dec. 20, 1993, 107 Stat. 2497; Pub. L. 104–262, title III, § 301(b), Oct. 9, 1996, 110 Stat. 3191; Pub. L. 107–135, title II, § 208(e)(8), Jan. 23, 2002, 115 Stat. 2464.)

AMENDMENTS

2002—Par. (1). Pub. L. 107–135 inserted ''services under sections 1782 and 1783 of this title,'' after ''of this title),''.

1996—Pub. L. 104–262 added pars. (1) and (2), redesignated par. (4) as (3), and struck out former pars. (1) to (3) which read as follows:

''(1) The term 'research center' means an institution (or part of an institution), the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

''(2) The term 'specialized medical resources' means medical resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

''(3) The term 'health-care resource' includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, any other health-care service, and any health-care support or administrative resource.''

1993—Pars. (3), (4). Pub. L. 103–210 added par. (3) and redesignated former par. (3) as (4).

1991—Pub. L. 102–40 renumbered section 5052 of this title as this section.

Pub. L. 102–54 amended section as in effect immediately before the enactment of Pub. L. 102–40 by redesignating pars. (a), (b), and (c) as pars. (1), (2), and (3), respectively, and by realigning the margins.

§ 8153. Sharing of health-care resources

(a)(1) To secure health-care resources which otherwise might not be feasibly available, or to effectively utilize certain other health-care resources, the Secretary may, when the Secretary determines it to be in the best interest of the prevailing standards of the Department medical care program, make arrangements, by contract or other form of agreement for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual.

(2) The Secretary may enter into a contract or other agreement under paragraph (1) if such resources are not, or would not be, used to their maximum effective capacity.

(3)(A) If the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with section 7302 of this title, including medical practice groups and other entities associated with affiliated institutions, blood banks, organ banks, or research centers, the Secretary may make arrangements for acquisition of the resource without regard to any law or regulation (including any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.

(B)(i) If the health-care resource required is a commercial service or the use of medical equipment or space, and is not to be acquired from an entity described in subparagraph (A), any procurement of the resource may be conducted without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource, but only if the procurement is conducted in accordance with the simplified procedures prescribed pursuant to clause (ii).

(ii) The Secretary, in consultation with the Administrator for Federal Procurement Policy, may prescribe simplified procedures for the procurement of health-care resources under this subparagraph. The Secretary shall publish such procedures for public comment in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b). Such procedures shall permit all responsible sources, as appropriate, to submit a bid, proposal, or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted.

(iii) Pending publication of the procedures under clause (ii), the Secretary shall (except as provided under subparagraph (A)) procure health-care resources referred to in clause (i) in accordance with all procurement laws and regulations.

(C) Any procurement of health-care resources other than those covered by subparagraph (A) or (B) shall be conducted in accordance with all procurement laws and regulations.

(D) For any procurement to be conducted on a sole source basis other than a procurement covered by subparagraph (A), a written justification shall be prepared that includes the information and is approved at the levels prescribed in section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)).

(E) As used in this paragraph, the term ''commercial service'' means a service that is offered and sold competitively in the commercial marketplace, is performed under standard commercial terms and conditions, and is procured using firm-fixed price contracts.

(b) Arrangements entered into under this section shall provide for payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government. Any proceeds to the Government received therefrom shall be credited to the applicable Department medical appropriation and to funds that have been allotted to the facility that furnished the resource involved.

(c) Eligibility for hospital care and medical services furnished any veteran pursuant to this section shall be subject to the same terms as though provided in a Department health care facility, and provisions of this title applicable to persons receiving hospital care or medical services in a Department health care facility shall apply to veterans treated under this section.

(d) When a Department health care facility provides hospital care or medical services, pur-

suant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment to such facility for such care or services or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.

(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

(1) that veterans will receive priority under such an arrangement; and

(2) that such an arrangement—

(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

(B) will result in the improvement of services to eligible veterans at that facility.

(f) Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.

(g) The Secretary shall submit to the Congress not later than February 1 of each year a report on the activities carried out under this section during the preceding fiscal year. Each report shall include—

(1) an appraisal of the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise; and

(2) recommendations for the improvement or more effective administration of such activities.

(Added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1374, § 5053; amended Pub. L. 91–496, § 4, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93–82, title III, § 303, Aug. 2, 1973, 87 Stat. 195; Pub. L. 94–581, title I, § 115(a)(1), title II, §§ 206(c), 210(e)(11), Oct. 21, 1976, 90 Stat. 2852, 2859, 2865; Pub. L. 96–151, title III, § 304, Dec. 20, 1979, 93 Stat. 1096; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98–160, title VII, § 702(20), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99–576, title II, § 231(c)(1), Oct. 28, 1986, 100 Stat. 3264; Pub. L. 101–366, title II, § 202(b), Aug. 15, 1990, 104 Stat. 438; renumbered § 8153, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–54, § 14(f)(9), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(D), (E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103–210, § 3(c), Dec. 20, 1993, 107 Stat. 2498; Pub. L. 104–262, title III, § 301(c), (d)(1), Oct. 9, 1996, 110 Stat. 3191, 3193; Pub. L. 105–114, title IV, § 402(d), (e), Nov. 21, 1997, 111 Stat. 2294; Pub. L. 106–419, title IV, § 404(b)(2), Nov. 1, 2000, 114 Stat. 1866; Pub. L. 108–170, title IV, § 405(d), Dec. 6, 2003, 117 Stat. 2063.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Subsec. (g). Pub. L. 108–170, in introductory provisions, substituted ''not later than February 1 of each year'' for ''not more than 60 days after the end of each fiscal year'' and inserted ''during the preceding fiscal year'' after ''under this section''.

2000—Subsec. (a)(3)(B)(ii). Pub. L. 106–419 amended directory language of Pub. L. 105–114, § 402(e). See 1997 Amendment note below.

1997—Subsec. (a)(3)(A). Pub. L. 105–114, § 402(d), inserted ''(including any Executive order, circular, or other administrative policy)'' after ''law or regulation''.

Subsec. (a)(3)(B)(ii). Pub. L. 105–114, § 402(e), as amended by Pub. L. 106–419, inserted '', as appropriate,'' after ''all responsible sources'' in third sentence.

1996—Pub. L. 104–262, § 301(d)(1), substituted ''Sharing of health-care resources'' for ''Specialized medical resources'' in section catchline.

Subsec. (a)(1). Pub. L. 104–262, § 301(c)(1)(A), substituted ''health-care resources'' for ''certain specialized medical resources'', ''other health-care resources'' for ''other medical resources'', and ''of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual'' for ''of—

''(A) specialized medical resources between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools; and

''(B) health-care resources between Department health-care facilities and State home facilities recognized under section 1742(a) of this title''.

Subsec. (a)(2). Pub. L. 104–262, § 301(c)(1)(B), substituted ''if such resources are not, or would not be,'' for ''only if (A) such an agreement will obviate the need for a similar resource to be provided in a Department health care facility, or (B) the Department resources which are the subject of the agreement and which have been justified on the basis of veterans' care are not''.

Subsec. (a)(3). Pub. L. 104–262, § 301(c)(1)(C), added par. (3).

Subsec. (b). Pub. L. 104–262, § 301(c)(2), substituted ''payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.'' for ''reciprocal reimbursement based on a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved.''

Subsec. (d). Pub. L. 104–262, § 301(c)(3), substituted ''preclude such payment to such facility for such care or services'' for ''preclude such payment, in accordance with—

''(1) rates prescribed by the Secretary of Health and Human Services, after consultation with the Secretary, and

''(2) procedures jointly prescribed by the two Secretaries to assure reasonable quality of care and services and efficient and economical utilization of resources,

to such facility therefor''.

Subsecs. (e) to (g). Pub. L. 104–262, § 301(c)(4), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1993—Subsec. (a). Pub. L. 103–210 designated existing provisions as par. (1) and substituted ''other form of agreement for the mutual use, or exchange of use, of—'' along with subpars. (A) and (B) and par. (2), for ''other form of agreement, as set forth in clauses (1)

and (2) below, between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools:

''(1) for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a similar resource to be provided in a Department health care facility; or

''(2) for the mutual use, or exchange of use, of specialized medical resources in a Department health care facility, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity.''

1991—Pub. L. 102–40 renumbered section 5053 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places in introductory provisions.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Subsec. (b). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (c). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Pub. L. 102–54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''under this section'' for ''hereunder''.

Subsec. (d). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (d)(2). Pub. L. 102–83, § 4(b)(2)(D), substituted ''the two Secretaries'' for ''the Secretary and the Administrator''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

1990—Subsec. (a). Pub. L. 101–366, § 202(b)(1), substituted ''health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools'' for ''hospitals and other hospitals (or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions) or medical schools or clinics in the medical community'' and struck out at end ''The Administrator may determine the geographical limitations of a medical community as used in this section.''

Subsec. (b). Pub. L. 101–366, § 202(b)(2), substituted in first sentence ''a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved.'' for ''a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment.'' and inserted before period at end of second sentence ''and to funds that have been allotted to the facility that furnished the resource involved''.

1986—Subsec. (e). Pub. L. 99–576 added subsec. (e).

1983—Subsec. (d). Pub. L. 98–160 substituted ''title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)'' for ''subchapter XVIII of chapter 7 of title 42''.

1982—Subsec. (d)(1). Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1979—Subsec. (a). Pub. L. 96–151 inserted provisions relating to applicability to organ banks, blood banks, or similar institutions.

1976—Subsec. (a). Pub. L. 94–581, §§ 206(c), 210(e)(11), substituted ''when the Administrator determines'' for ''when he determines'' and ''clauses'' for ''paragraphs'' in provisions preceding cl. (1), and inserted ''health care'' after ''Veterans' Administration'' in cls. (1) and (2).

Subsec. (c). Pub. L. 94–581, § 206(c)(2), inserted ''health care'' after ''Veterans' Administration'' in two places.

Subsec. (d). Pub. L. 94–581, § 115(a)(1), inserted subsec. (d).

1973—Subsec. (a). Pub. L. 93–82 struck out ''or medical schools'' from parenthetical and inserted ''or medical schools or clinics'' after parenthetical.

1970—Subsec. (a)(1). Pub. L. 91–496 substituted ''for the mutual use, or exchange of use,'' for ''for the exchange of use''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title IV, § 404(b)(2), Nov. 1, 2000, 114 Stat. 1866, provided that the amendment made by section 404(b)(2) is effective Nov. 21, 1997, and as if included in Pub. L. 105–114 as originally enacted.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

REPORT TO CONGRESS ON RATES AND PROCEDURES COVERING PAYMENT OF BENEFITS FOR CARE OR SERVICES PROVIDED IN VETERANS' ADMINISTRATION HEALTH CARE FACILITIES TO INDIVIDUALS NOT ELIGIBLE FOR VETERANS' HOSPITAL, NURSING HOME, DOMICILIARY, OR MEDICAL CARE

Section 115(c) of Pub. L. 94–581 provided that at such time as the rates and procedures described in subsec. (d) of this section were prescribed, the Secretary of Health, Education, and Welfare [now Secretary of Health and Human Services], in consultation with the Administrator of Veterans' Affairs, was to submit to the Committee on Ways and Means and the Committee on Veterans' Affairs of the House of Representatives and to the Committee on Finance and the Committee on Veterans' Affairs of the Senate a full report describing such rates and procedures.

§ 8154. Exchange of medical information

(a) The Secretary is authorized to enter into agreements with medical schools, hospitals, research centers, and individual members of the medical profession under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement. In carrying out the purposes of this section, the Secretary shall utilize recent developments in electronic equipment to provide a close educational, scientific, and professional link between Department hospitals and major medical centers. Such agreements shall be utilized by the Secretary to the maximum extent practicable to create, at each Department hospital which is a part of any such agreement, an environment of academic medicine which will help such hospital attract and retain highly trained and qualified members of the medical profession.

(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Department hospitals and the electronic link to medical centers shall be made

available for use by the surrounding medical community (including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans). The Secretary may charge a fee for such services (on annual or like basis) at rates which the Secretary determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Secretary in establishing the amount of the fee to be paid. Any proceeds to the Government received therefrom shall be credited to the applicable Department medical appropriation.

(c) The Secretary is authorized to enter into agreements with public and nonprofit private institutions, organizations, corporations, and other entities in order to participate in cooperative health-care personnel education programs within the geographical area of any Department health-care facility located in an area remote from major academic health centers.

(Added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1374, § 5054; amended Pub. L. 94–424, § 1(1), Sept. 28, 1976, 90 Stat. 1332; Pub. L. 94–581, title II, §§ 206(d), 210(e)(12), Oct. 21, 1976, 90 Stat. 2859, 2865; Pub. L. 96–151, title I, § 102(a), Dec. 20, 1979, 93 Stat. 1092; Pub. L. 97–251, § 9, Sept. 8, 1982, 96 Stat. 716; renumbered § 8154, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5054 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

1982—Subsec. (b). Pub. L. 97–251 inserted ''(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)'' after ''by the surrounding medical community''.

1979—Subsec. (c). Pub. L. 96–151 added subsec. (c).

1976—Subsec. (b). Pub. L. 94–581 substituted ''by the surrounding'' for ''by surrounding'' and ''which the Administrator determines'' for ''which he determines''.

Pub. L. 94–424 inserted provision that any proceeds to the Government received therefrom shall be credited to the applicable Veterans' Administration medical appropriation.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8155. Pilot programs; grants to medical schools

(a) The Secretary may establish an Advisory Subcommittee on Programs for Exchange of Medical Information, of the Special Medical Advisory Group, established under section 7312 of this title, to advise the Secretary on matters regarding the administration of this section and to coordinate these functions with other research and education programs in the Department of Medicine and Surgery. The Assistant Under Secretary for Health charged with administration of the Department of Medicine and Surgery medical research program shall be an ex officio member of this Subcommittee.

(b) The Secretary, upon the recommendation of the Subcommittee, is authorized to make grants to medical schools, hospitals, and research centers to assist such medical schools, hospitals, and research centers in planning and carrying out agreements authorized by section 8154 of this title. Such grants may be used for the employment of personnel, the construction of facilities, the purchasing of equipment when necessary to implement such programs, and for such other purposes as will facilitate the administration of this section.

(c)(1) There is hereby authorized to be appropriated an amount not to exceed $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending September 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979 and for each of the three succeeding fiscal years, for the purpose of developing and carrying out medical information programs under this section on a pilot program basis and for the grants authority in subsection (b) of this section. Pilot programs authorized by this subsection shall be carried out at Department hospitals in geographically dispersed areas of the United States.

(2) Funds authorized under this section shall not be available to pay the cost of hospital, medical, or other care of patients except to the extent that such cost is determined by the Secretary to be incident to research, training, or demonstration activities carried out under this section.

(d) The Secretary, after consultation with the Subcommittee shall prescribe regulations covering the terms and conditions for making grants under this section.

(e) Each recipient of a grant under this section shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(f) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient of any grant under this section which are pertinent to any such grant.

(Added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1375, § 5055; amended Pub. L. 92–69, Aug. 6, 1971, 85 Stat. 178; Pub. L. 94–424, § 1(2), Sept. 28, 1976, 90 Stat. 1332; Pub. L. 94–581, title II, §§ 206(e), 210(e)(13), Oct. 21, 1976, 90 Stat. 2859, 2865; Pub. L. 96–151, title I, § 102(b), Dec. 20, 1979, 93 Stat. 1092; renumbered § 8155 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 103–446, title XII, § 1201(d)(19), Nov. 2, 1994, 108 Stat. 4684.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–446 substituted ''section 7312'' for ''section 4112''.

1992—Subsec. (a). Pub. L. 102–405 substituted ''Under Secretary for Health'' for ''Chief Medical Director''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5055 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''8154'' for ''5054''.

Subsec. (c)(1). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsecs. (c)(2), (d) to (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1979—Subsec. (c)(1). Pub. L. 96–151 inserted authorization for the three succeeding fiscal years after fiscal year 1979.

1976—Subsec. (a). Pub. L. 94–581 substituted ''advise the Administrator'' for ''advise him'' and ''Assistant Chief Medical Director charged with administration of the Department of Medicine and Surgery medical research program'' for ''Assistant Chief Medical Director for Research and Education in Medicine''.

Subsec. (c)(1). Pub. L. 94–424 substituted provisions authorizing appropriations of $3,500,000 for fiscal year 1976; $1,700,000 for the period beginning July 1, 1976, and ending Sept. 30, 1976; $4,000,000 for fiscal year 1977; $4,000,000 for fiscal year 1978; and $4,000,000 for fiscal year 1979 for provisions authorizing appropriations of $3,000,000 for each fiscal year 1968 through 1971, and such sums as may be necessary for each fiscal year 1972 through 1975.

1971—Subsec. (c)(1). Pub. L. 92–69 substituted provisions authorizing appropriations of amounts up to $3,000,000 for each fiscal year 1968 through 1971, and such sums as may be necessary for each fiscal year 1972 through 1975, for provisions authorizing appropriations of amounts up to $3,000,000 for each of the first four fiscal years following fiscal year in which this subchapter was enacted.

CHANGE OF NAME

Reference to Veterans Health Services and Research Administration (or to Department of Medicine and Surgery of the Veterans' Administration) deemed to refer to Veterans Health Administration pursuant to section 2 of Pub. L. 102–40, set out as a Renaming of Veterans Health Services and Research Administration note under section 301 of this title.

Reference to Department of Medicine and Surgery deemed to refer to Veterans Health Services and Research Administration of the Department of Veterans Affairs, pursuant to section 10 of Pub. L. 100–527, set out as a Department of Veterans Affairs Act note under section 301 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 8156. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974

The Secretary and the Secretary of Health and Human Services shall, to the maximum extent practicable, coordinate programs carried out under this subchapter and programs carried out under part F of title XVI of the Public Health Service Act (42 U.S.C. 300t et seq.).

(Added Pub. L. 89–785, title II, § 203, Nov. 7, 1966, 80 Stat. 1375, § 5056; amended Pub. L. 94–581, title I, § 115(a)(2), Oct. 21, 1976, 90 Stat. 2853; Pub. L. 97–295, § 4(93), (95)(A), Oct. 12, 1982, 96 Stat. 1313; renumbered § 8156, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

REFERENCES IN TEXT

The National Health Planning and Resources Development Act of 1974, referred to in section catchline, is Pub. L. 93–641, Jan. 4, 1975, 88 Stat. 2225, as amended, which is classified generally to subchapters XIII (§ 300k et seq.) and XIV (§ 300*o* et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out under section 201 of Title 42 and Tables.

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part F of title XVI of the Public Health Service Act was added by act Jan. 4, 1975, Pub. L. 93–641, § 4, 88 Stat. 2273, and was redesignated as Part D by Pub. L. 96–79, title II, § 202(a), Oct. 4, 1979, 93 Stat. 632. Part D of that Act is classified generally to Part D (§ 300t) of subchapter XIV of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5056 of this title as this section.

Pub. L. 102–83 substituted ''The Secretary'' for ''The Administrator''.

1982—Pub. L. 97–295, § 4(95)(A), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Pub. L. 97–295, § 4(93), inserted ''(42 U.S.C. 300t et seq.)'' after ''part F of title XVI of the Public Health Service Act''.

1976—Pub. L. 94–581 substituted ''health services development activities carried out under the National Health Planning and Resources Development Act of 1974'' for ''programs carried out under the Heart Disease, Cancer, and Stroke Amendments of 1965'' in section catchline and ''part F of title XVI'' for ''title IX'' in text.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8157. Joint title to medical equipment

(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint acquisition of medical equipment.

(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

(2) Any equipment to be procured under such an agreement shall be procured by the Sec-

retary. Title to such equipment shall be held jointly by the United States and the institution.

(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 8153 of this title for the exchange or use of the equipment.

(4) The Secretary may not contract for the acquisition of medical equipment to be purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment.

(Added Pub. L. 102–405, title I, § 103(a)(1), Oct. 9, 1992, 106 Stat. 1973.)

§ 8158. Deposit in escrow

(a) To facilitate the procurement of medical equipment pursuant to section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(2) retain in the escrow account interest or other earnings on such investments;

(3) disburse the funds pursuant to the escrow agreement; and

(4) return undisbursed funds to the institution.

(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

(2) Funds held in an escrow account under this section shall not be considered to be public funds.

(Added Pub. L. 102–405, title I, § 103(a)(1), Oct. 9, 1992, 106 Stat. 1974.)

SUBCHAPTER V—ENHANCED-USE LEASES OF REAL PROPERTY

§ 8161. Definitions

For the purposes of this subchapter:

(1) The term ''enhanced-use lease'' means a written lease entered into by the Secretary under this subchapter.

(2) The term ''congressional veterans' affairs committees'' means the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 417.)

TRAINING AND OUTREACH REGARDING AUTHORITY

Pub. L. 106–117, title II, § 208(f), Nov. 30, 1999, 113 Stat. 1568, provided that: ''The Secretary [of Veterans Affairs] shall take appropriate actions to provide training and outreach to personnel at Department [of Veterans Affairs] medical centers regarding the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code. The training and outreach shall address methods of approaching potential lessees in the medical or commercial sectors regarding the possibility of entering into leases under that authority and other appropriate matters.''

INDEPENDENT ANALYSIS OF OPPORTUNITIES FOR USE OF AUTHORITY

Pub. L. 106–117, title II, § 208(g), Nov. 30, 1999, 113 Stat. 1568, provided that:

''(1) The Secretary [of Veterans Affairs] shall take appropriate actions to secure from an appropriate entity (or entities) independent of the Department [of Veterans Affairs] an analysis (or analyses) of opportunities for the use of the enhanced-use lease authority under subchapter V of chapter 81 of title 38, United States Code.

''(2) An analysis under paragraph (1) shall include—

''(A) a survey of facilities of the Department for purposes of identifying Department property that presents an opportunity for lease under the enhanced-use lease authority;

''(B) an assessment of the feasibility of entering into enhanced-use leases under that authority in the case of any property identified under subparagraph (A) as presenting an opportunity for such lease; and

''(C) an assessment of the resources required at the Department facilities concerned, and at the Department Central Office, in order to facilitate the entering into of enhanced-used leases in the case of property so identified.

''(3) If as a result of a survey under paragraph (2)(A) an entity carrying out an analysis under this subsection determines that a particular Department property presents no opportunities for lease under the enhanced-use lease authority, the analysis shall include the entity's explanation of that determination.

''(4) If as a result of such a survey an entity carrying out an analysis under this subsection determines that certain Department property presents an opportunity for lease under the enhanced-use lease authority, the

analysis shall include a single integrated business plan, developed by the entity, that addresses the strategy and resources necessary to implement the plan for all property determined to present an opportunity for such lease.''

ENHANCED USE LEASES

Pub. L. 104–110, title II, § 202(c), Feb. 13, 1996, 110 Stat. 771, provided that: ''The Secretary shall submit to Congress, not later than March 31, 1997, a report evaluating the operation of the program under subchapter V of chapter 81 of title 38, United States Code.''

§ 8162. Enhanced-use leases

(a)(1) The Secretary may in accordance with this subchapter enter into leases with respect to real property that is under the jurisdiction or control of the Secretary. Any such lease under this subchapter may be referred to as an ''enhanced-use lease''. The Secretary may dispose of any such property that is leased to another party under this subchapter in accordance with section 8164 of this title. The Secretary may exercise the authority provided by this subchapter notwithstanding section 8122 of this title, subchapter II of chapter 5 of title 40, sections 541–555 and 1302 of title 40, or any other provision of law (other than Federal laws relating to environmental and historic preservation) inconsistent with this section. The applicability of this subchapter to section 421(b) of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322; 102 Stat. 553) is covered by subsection (c).

(2) The Secretary may enter into an enhanced-use lease only if—

(A) the Secretary determines that—

(i) at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department;

(ii) the lease will not be inconsistent with and will not adversely affect the mission of the Department; and

(iii) the lease will enhance the use of the property; or

(B) the Secretary determines that the implementation of a business plan proposed by the Under Secretary for Health for applying the consideration under such a lease to the provision of medical care and services would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.

(3) The provisions of sections 3141–3144, 3146, and 3147 of title 40 shall not, by reason of this section, become inapplicable to property that is leased to another party under an enhanced-use lease.

(4) A property that is leased to another party under an enhanced-use lease may not be considered to be unutilized or underutilized for purposes of section 501 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411).

(b)(1)(A) If the Secretary has determined that a property should be leased to another party through an enhanced-use lease, the Secretary shall select the party with whom the lease will be entered into using selection procedures determined by the Secretary that ensure the integrity of the selection process.

(B) In the case of a property that the Secretary determines is appropriate for use as a facility to furnish services to homeless veterans under chapter 20 of this title, the Secretary may enter into an enhanced-use lease with a provider of homeless services without regard to the selection procedures required under subparagraph (A).

(2) The term of an enhanced-use lease may not exceed 75 years.

(3)(A) Each enhanced-use lease shall be for fair consideration, as determined by the Secretary. Consideration under such a lease may be provided in whole or in part through consideration in-kind.

(B) Consideration in-kind may include provision of goods or services of benefit to the Department, including construction, repair, remodeling, or other physical improvements of Department facilities, maintenance of Department facilities, or the provision of office, storage, or other usable space.

(4) The terms of an enhanced-use lease may provide for the Secretary to—

(A) obtain facilities, space, or services on the leased property; and

(B) use minor construction funds for capital contribution payments.

(c)(1) Subject to paragraph (2), the entering into an enhanced-use lease covering any land or improvement described in section 421(b)(2) of the Veterans' Benefits and Services Act of 1988 (Public Law 100–322; 102 Stat. 553) shall be considered to be prohibited by that section unless specifically authorized by law.

(2) The entering into an enhanced-use lease by the Secretary covering any land or improvement described in such section 421(b)(2) shall not be considered to be prohibited under that section if under the lease—

(A) the designated property is to be used only for child-care services;

(B) those services are to be provided only for the benefit of—

(i) employees of the Department;

(ii) individuals employed on the premises of such property; and

(iii) employees of a health-personnel educational institution that is affiliated with a Department facility;

(C) over one-half of the employees benefited by the child-care services provided are required to be employees of the Department; and

(D) over one-half of the children to whom child-care services are provided are required to be children of employees of the Department.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 417; amended Pub. L. 106–117, title II, § 208(a), (b), Nov. 30, 1999, 113 Stat. 1567; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 107–95, § 10(b), Dec. 21, 2001, 115 Stat. 920; Pub. L. 107–217, § 3(j)(5), Aug. 21, 2002, 116 Stat. 1300; Pub. L. 108–178, § 4(i)(1), Dec. 15, 2003, 117 Stat. 2642.)

REFERENCES IN TEXT

Section 421(b) of the Veterans' Benefits and Services Act of 1988, referred to in subsecs. (a)(1) and (c), is section 421(b) of Pub. L. 100–322, title IV, May 20, 1988, 102 Stat. 553, which is not classified to the Code.

AMENDMENTS

2003—Subsec. (a)(3). Pub. L. 108–178 struck out comma after ''of title 40''.

2002—Subsec. (a)(1). Pub. L. 107–217, § 3(j)(5)(A), substituted ''subchapter II of chapter 5 of title 40, sections 541–555 and 1302 of title 40'' for ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)''.

Subsec. (a)(3). Pub. L. 107–217, § 3(j)(5)(B), substituted ''sections 3141–3144, 3146, and 3147 of title 40'' for ''the Act of March 3, 1931 (40 U.S.C. 276a et seq.)''.

2001—Subsec. (b)(1). Pub. L. 107–95 designated existing provisions as subpar. (A) and added subpar. (B).

2000—Subsec. (a)(4). Pub. L. 106–400 substituted ''McKinney-Vento Homeless Assistance Act'' for ''Stewart B. McKinney Homeless Assistance Act''.

1999—Subsec. (a)(2). Pub. L. 106–117, § 208(a), inserted subpar. (A) designation before ''the Secretary'', redesignated subpars. (A) to (C) as cls. (i) to (iii), respectively, and realigned the margins, substituted ''; or'' for period at end of cl. (iii), and added subpar. (B).

Subsec. (b)(2). Pub. L. 106–117, § 208(b)(1), substituted ''may not exceed 75 years.'' for ''may not exceed—''

''(A) 35 years, in the case of a lease involving the construction of a new building or the substantial rehabilitation of an existing building, as determined by the Secretary; or

''(B) 20 years, in the case of a lease not described in subparagraph (A).''

Subsec. (b)(4). Pub. L. 106–117, § 208(b)(2), added par. (4) and struck out former par. (4) which read as follows: ''Any payment by the Secretary for the use of space or services by the Department on property that has been leased under this subchapter may only be made from funds appropriated to the Department for the activity that uses the space or services. No other such payment may be made by the Secretary to a lessee under an enhanced-use lease unless the authority to make the payment is provided in advance in an appropriation Act.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–95, § 10(c), Dec. 21, 2001, 115 Stat. 920, provided that: ''The amendments made by subsection (b) [amending this section] shall apply to leases entered into on or after the date of the enactment of this Act [Dec. 21, 2001].''

§ 8163. Hearing and notice requirements regarding proposed leases

(a) If the Secretary proposes to enter into an enhanced-use lease with respect to certain property, the Secretary shall conduct a public hearing before entering into the lease. The hearing shall be conducted in the community in which the property is located. At the hearing, the Secretary shall receive the views of veterans service organizations and other interested parties regarding the proposed lease of the property and the possible effects of the uses to be made of the property under a lease of the general character then contemplated. The possible effects to be addressed at the hearing shall include effects on—

(1) local commerce and other aspects of the local community;

(2) programs administered by the Department; and

(3) services to veterans in the community.

(b) Before conducting such a hearing, the Secretary shall provide reasonable notice to the congressional veterans' affairs committees and to the public of the proposed lease and of the hearing. The notice shall include the following:

(1) The time and place of the hearing.

(2) Identification of the property proposed to be leased.

(3) A description of the proposed uses of the property under the lease.

(4) A description of how the uses to be made of the property under a lease of the general character then contemplated—

(A) would—

(i) contribute in a cost-effective manner to the mission of the Department;

(ii) not be inconsistent with the mission of the Department;

(iii) not adversely affect the mission of the Department; and

(iv) affect services to veterans; or

(B) would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.

(5) A description of how those uses would affect services to veterans.

(c)(1) If after a hearing under subsection (a) the Secretary intends to enter into an enhanced-use lease of the property involved, the Secretary shall notify the congressional veterans' affairs committees of the Secretary's intention to enter into such lease and shall publish a notice of such intention in the Federal Register.

(2) The Secretary may not enter into an enhanced use lease until the end of the 45-day period beginning on the date of the submission of notice under paragraph (1).

(3) Each notice under paragraph (1) shall include the following:

(A) An identification of the property involved.

(B) An explanation of the background of, rationale for, and economic factors in support of, the proposed lease.

(C) A summary of the views expressed by interested parties at the public hearing conducted in connection with the proposed designation, together with a summary of the Secretary's evaluation of those views.

(D) A description of the provisions of the proposed lease.

(E) A description of how the proposed lease—

(i) would—

(I) contribute in a cost-effective manner to the mission of the Department;

(II) not be inconsistent with the mission of the Department;

(III) not adversely affect the mission of the Department; and

(IV) affect services to veterans; or

(ii) would result in a demonstrable improvement of services to eligible veterans in the geographic service-delivery area within which the property is located.

(F) A description of how the proposed lease would affect services to veterans.

(G) A summary of a cost-benefit analysis of the proposed lease.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 419; amended Pub. L. 106–117, title

II, § 208(c), Nov. 30, 1999, 113 Stat. 1567; Pub. L. 106–419, title II, § 241, title IV, § 404(b)(1), Nov. 1, 2000, 114 Stat. 1847, 1865; Pub. L. 108–170, title II, § 202(a), (d)(1), Dec. 6, 2003, 117 Stat. 2047, 2048.)

AMENDMENTS

2003—Pub. L. 108–170, § 202(d)(1), substituted ''Hearing and notice requirements regarding proposed leases'' for ''Designation of property to be leased'' in section catchline.

Subsec. (a). Pub. L. 108–170, § 202(a)(1), in first sentence, substituted ''enter into an enhanced-use lease with respect to certain property'' for ''designate a property to be leased under an enhanced-use lease'' and ''before entering into the lease'' for ''before making the designation''.

Subsec. (b). Pub. L. 108–170, § 202(a)(2), substituted ''to the congressional veterans' affairs committees and to the public of the proposed lease'' for ''of the proposed designation'' in introductory provisions.

Subsec. (c)(1). Pub. L. 108–170, § 202(a)(3)(A), substituted ''enter into an enhanced-use lease of the property involved'' for ''designate the property involved'' and ''to enter into such lease'' for ''to so designate the property''.

Subsec. (c)(2). Pub. L. 108–170, § 202(a)(3)(B), substituted ''45-day period'' for ''90-day period''.

Subsec. (c)(3)(D). Pub. L. 108–170, § 202(a)(3)(C)(i), substituted ''description of the provisions'' for ''general description''.

Subsec. (c)(3)(G). Pub. L. 108–170, § 202(a)(3)(C)(ii), added subpar. (G).

Subsec. (c)(4). Pub. L. 108–170, § 202(a)(3)(D), struck out par. (4) which read as follows: ''Not less than 30 days before entering into an enhanced-use lease, the Secretary shall submit to the congressional veterans' affairs committees a report on the proposed lease. The report shall include—

''(A) updated information with respect to the matters described in paragraph (3);

''(B) a summary of a cost-benefit analysis of the proposed lease;

''(C) a description of the provisions of the proposed lease; and

''(D) a notice of designation with respect to the property.''

2000—Subsec. (c)(2). Pub. L. 106–419, § 241, amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary may not enter into an enhanced-use lease until the end of a 60-day period of continuous session of Congress following the date of the submission of notice under paragraph (1). For purposes of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and there shall be excluded from the computation of such 60-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.''

Subsec. (c)(3)(E). Pub. L. 106–419, § 404(b)(1), amended directory language of Pub. L. 106–117, § 208(c)(2). See 1999 Amendment note below.

1999—Subsec. (b). Pub. L. 106–117, § 208(c)(1)(A), substituted ''include the following:'' for ''include—'' in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 106–117, § 208(c)(1)(B), (C), capitalized the first letter of the first word and substituted a period for the semicolon at end.

Subsec. (b)(4). Pub. L. 106–117, § 208(c)(1)(B), (D), in introductory provisions, capitalized the first letter of the first word, added subpars. (A) and (B), and struck out former subpars. (A) to (C) which read as follows:

''(A) would contribute in a cost-effective manner to the mission of the Department;

''(B) would not be inconsistent with the mission of the Department; and

''(C) would not adversely affect the mission of the Department; and''.

Subsec. (b)(5). Pub. L. 106–117, § 208(c)(1)(B), capitalized the first letter of the first word.

Subsec. (c)(3)(E). Pub. L. 106–117, § 208(c)(2), as amended by Pub. L. 106–419, § 404(b)(1), substituted cls. (i) and (ii) for former cls. (i) to (iii) which read as follows:

''(i) would contribute in a cost-effective manner to the mission of the Department;

''(ii) would not be inconsistent with the mission of the Department; and

''(iii) would not adversely affect the mission of the Department.''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title IV, § 404(b)(1), Nov. 1, 2000, 114 Stat. 1865, provided that the amendment made by section 404(b)(1) is effective Nov. 30, 1999, and as if included in Pub. L. 106–117 as originally enacted.

§ 8164. Authority for disposition of leased property

(a) If, during the term of an enhanced-use lease or within 30 days after the end of the term of the lease, the Secretary determines that the leased property is no longer needed by the Department, the Secretary may initiate action for the transfer to the lessee of all right, title, and interest of the United States in the property. A disposition of property may not be made under this section unless the Secretary determines that the disposition under this section rather than under section 8118 or 8122 of this title is in the best interests of the Department.

(b) A disposition under this section may be made for such consideration as the Secretary determines is in the best interest of the United States and upon such other terms and conditions as the Secretary considers appropriate.

(c) Not less than 45 days before a disposition of property is made under this section, the Secretary shall notify the congressional veterans' affairs committees of the Secretary's intent to dispose of the property and shall publish notice of the proposed disposition in the Federal Register. The notice shall describe the background of, rationale for, and economic factors in support of, the proposed disposition (including a cost-benefit analysis summary) and the method, terms, and conditions of the proposed disposition.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 420; amended Pub. L. 108–170, title II, § 202(b), Dec. 6, 2003, 117 Stat. 2047; Pub. L. 108–422, title IV, § 411(e)(3), Nov. 30, 2004, 118 Stat. 2390.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–422 inserted ''8118 or'' after ''rather than under section''.

2003—Subsec. (a). Pub. L. 108–170, § 202(b)(1), struck out ''by requesting the Administrator of General Services to dispose of the property pursuant to subsection (b)'' after ''in the property'' in first sentence and struck out at end ''The Administrator, upon request of the Secretary, shall take appropriate action under this section to dispose of property of the Department that is or has been subject to an enhanced-use lease.''

Subsec. (b). Pub. L. 108–170, § 202(b)(2), substituted ''Secretary determines'' for ''Secretary and the Administrator of General Services jointly determine'' and ''Secretary considers'' for ''Secretary and the Administrator consider''.

Subsec. (c). Pub. L. 108–170, § 202(b)(3), substituted ''45 days'' for ''90 days''.

§ 8165. Use of proceeds

(a)(1) Funds received by the Department under an enhanced-use lease and remaining after any

deduction from those funds under subsection (b) shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of this title.

(2) Funds received by the Department from a disposal of leased property under section 8164 of this title shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title.

(b) An amount sufficient to pay for any expenses incurred by the Secretary in any fiscal year in connection with an enhanced-use lease shall be deducted from the proceeds of the lease for that fiscal year and may be used by the Secretary to reimburse the account from which the funds were used to pay such expenses. The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 106–117, title II, § 208(d), Nov. 30, 1999, 113 Stat. 1568; Pub. L. 107–217, § 3(j)(6), Aug. 21, 2002, 116 Stat. 1301; Pub. L. 108–7, div. K, title I, § 113(d)(1), Feb. 20, 2003, 117 Stat. 483; Pub. L. 108–170, title II, § 202(c), Dec. 6, 2003, 117 Stat. 2048; Pub. L. 108–178, § 4(i)(2), Dec. 15, 2003, 117 Stat. 2642; Pub. L. 108–422, title IV, § 411(e)(4), Nov. 30, 2004, 118 Stat. 2390.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108–422 substituted ''Department of Veterans Affairs Capital Asset Fund established under section 8118 of this title'' for ''nursing home revolving fund''.

2003—Subsec. (a)(1). Pub. L. 108–7 substituted ''Department of Veterans Affairs Medical Care Collections Fund established under section 1729A of this title'' for ''Department of Veterans Affairs Health Services Improvement Fund established under section 1729B of this title''.

Subsec. (a)(2). Pub. L. 108–170, § 202(c)(1), struck out ''and remaining after any deduction from such funds under the laws referred to in subsection (c)'' after ''title''.

Subsec. (b). Pub. L. 108–170, § 202(c)(2), inserted at end ''The Secretary may use the proceeds from any enhanced-use lease to reimburse applicable appropriations of the Department for any expenses incurred in the development of additional enhanced-use leases.''

Subsec. (c). Pub. L. 108–178 struck out comma after ''of title 40''.

Pub. L. 108–170, § 202(c)(3), struck out subsec. (c) which read as follows: ''Subsection (a) does not affect the applicability of subchapter IV of chapter 5 of title 40 with respect to reimbursement of the Administrator of General Services for expenses arising from any disposal of property under section 8164 of this title.''

2002—Subsec. (c). Pub. L. 107–217 substituted ''subchapter IV of chapter 5 of title 40'' for ''section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) or the Act of June 8, 1896 (40 U.S.C. 485a)''.

1999—Subsec. (a)(1). Pub. L. 106–117 added par. (1) and struck out former par. (1) which read as follows: ''Of the funds received by the Department under an enhanced-use lease and remaining after any deduction from such funds under subsection (b), 75 percent shall be deposited in the nursing home revolving fund established under section 8116 of this title and 25 percent shall be credited to the Medical Care Account of the Department for the use of the Department facility at which the property is located.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

§ 8166. Construction standards

(a) Unless the Secretary provides otherwise, the construction, alteration, repair, remodeling, or improvement of the property that is the subject of the lease shall be carried out so as to comply with all standards applicable to construction of Federal buildings. Any such construction, alteration, repair, remodeling, or improvement shall not be subject to any State or local law relating to land use, building codes, permits, or inspections unless the Secretary provides otherwise.

(b) Unless the Secretary has provided that Federal construction standards are not applicable to a property, the Secretary shall conduct periodic inspections of any such construction, alteration, repair, remodeling, or improvement for the purpose of ensuring that the standards are met.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 421; amended Pub. L. 108–422, title IV, § 417, Nov. 30, 2004, 118 Stat. 2393.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–422 inserted ''land use,'' after ''relating to'' in second sentence.

§ 8167. Exemption from State and local taxes

The interest of the United States in any property subject to an enhanced-use lease and any use by the United States of such property during such lease shall not be subject, directly or indirectly, to any State or local law relative to taxation, fees, assessments, or special assessments, except sales taxes charged in connection with any construction, alteration, repair, remodeling, or improvement project carried out under the lease.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 421.)

[§ 8168. Repealed. Pub. L. 105–114, title II, § 205(b)(1), Nov. 21, 1997, 111 Stat. 2288]

Section, added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 421, limited number of enhanced-use leases that could be entered into under this subchapter.

§ 8169. Expiration

The authority of the Secretary to enter into enhanced-use leases under this subchapter expires on December 31, 2011.

(Added Pub. L. 102–86, title IV, § 401(a), Aug. 14, 1991, 105 Stat. 422; amended Pub. L. 103–452, title I, § 103(d), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104–110, title I, § 101(k), Feb. 13, 1996, 110 Stat. 769; Pub. L. 105–114, title II, § 205(a), Nov. 21, 1997, 111 Stat. 2288; Pub. L. 106–117, title II, § 208(e), Nov. 30, 1999, 113 Stat. 1568.)

AMENDMENTS

1999—Pub. L. 106–117 substituted ''December 31, 2011'' for ''December 31, 2001''.

1997—Pub. L. 105–114 substituted ''December 31, 2001'' for ''December 31, 1997''.

1996—Pub. L. 104–110 substituted ''December 31, 1997'' for ''December 31, 1995''.

1994—Pub. L. 103–452 substituted ''December 31, 1995'' for ''December 31, 1994''.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104–110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104–110, set out as a note under section 1710 of this title.

CHAPTER 82—ASSISTANCE IN ESTABLISHING NEW STATE MEDICAL SCHOOLS; GRANTS TO AFFILIATED MEDICAL SCHOOLS; ASSISTANCE TO HEALTH MANPOWER TRAINING INSTITUTIONS

Sec.
8201. Coordination with public health programs; administration.

SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

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8231. Declaration of purpose.
8232. Definition.
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SUBCHAPTER IV—EXPANSION OF DEPARTMENT HOSPITAL EDUCATION AND TRAINING CAPACITY

8241. Expenditures to remodel and make special allocations to Department hospitals for health manpower education and training.

AMENDMENTS

1991—Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''DEPARTMENT'' for ''VETERANS' ADMINISTRATION'' in headings for subchapters III and IV and ''Department'' for ''Veterans' Administration'' in item 8241.

Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 5070 to 5096 as 8201 to 8241, respectively.

§ 8201. Coordination with public health programs; administration

(a) The Secretary and the Secretary of Health and Human Services shall, to the maximum extent practicable, coordinate the programs carried out under this chapter and the programs carried out under titles VII, VIII, and IX of the Public Health Service Act (42 U.S.C. 292 et seq.).

(b) The Secretary may not enter into any agreement under subchapter I of this chapter after September 30, 1979.

(c) The Secretary, after consultation with the special medical advisory committee established pursuant to section 7312(a) of this title, shall prescribe regulations covering the terms and conditions for entering into agreements and making grants under this chapter.

(d) Payments made pursuant to grants under this chapter may be made in installments, and either in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) In carrying out the purposes of this chapter, the Secretary may lease to any eligible institution for such consideration and under such terms and conditions as the Secretary deems appropriate, such land, buildings, and structures (including equipment therein) under the control and jurisdiction of the Department as may be necessary. The three-year limitation on the term of a lease prescribed in section 8122(a) of this title shall not apply with respect to any lease entered into pursuant to this chapter, but no such lease may be for a period of more than 50 years. Any lease entered into pursuant to this chapter may be entered into without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Notwithstanding section 1302 of title 40, or any other provision of law, a lease entered into pursuant to this chapter may provide for the maintenance, protection, or restoration, by the lessee, of the property leased, as a part or all of the consideration of the lease.

(f) In making grants under this chapter, the Secretary shall give special consideration to applications from institutions which provide reasonable assurances, which shall be included in the grant agreement, that priority for admission to health manpower and training programs carried out by such institutions will be given to otherwise qualified veterans who during their military service acquired medical military occupation specialties, and that among such qualified veterans those who served during the Vietnam era and those who are entitled to disability compensation under laws administered by the Secretary or whose discharge or release was for a disability incurred or aggravated in line of duty will be given the highest priority. In carrying out this chapter and section 7302 of this title in connection with health manpower and training programs assisted or conducted under this title or in affiliation with a Department medical facility, the Secretary shall take appropriate steps to encourage the institutions involved to afford the priorities described in the first sentence of this subsection and to advise all qualified veterans with such medical military occupation specialties of the steps the Secretary has taken under this subsection and the opportunities available to them as a result of such steps.

(g)(1) Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is made or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any assistance under this chapter which are pertinent to such assistance.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1101, § 5070; amended Pub. L. 94–581, title I, § 116(1), (2), title II, § 210(f)(1), Oct. 21, 1976, 90 Stat. 2853, 2854, 2865; Pub. L. 96–151, title I, § 103(a), Dec. 20, 1979, 93 Stat. 1093; Pub. L. 96–330, title IV, § 403(b), Aug. 26, 1980, 94 Stat. 1052; Pub. L. 97–295, § 4(94), Oct. 12, 1982, 96 Stat. 1313; renumbered § 8201 and amended Pub. L. 102–40, title IV, §§ 402(b)(2)(A), (d)(1), 403(b)(6), May 7, 1991, 105 Stat. 239, 240; Pub. L. 102–54, § 14(f)(10), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, § 4(a)(1), (3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 403–405; Pub. L. 103–446, title XII, § 1201(d)(20), Nov. 2, 1994, 108 Stat. 4685; Pub. L. 106–419, title IV, § 403(b), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 107–217, § 3(j)(7), Aug. 21, 2002, 116 Stat. 1301.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VII of the Public Health Service Act was added by act July 30, 1956, ch. 779, § 2, 70 Stat. 717, and is classified generally to subchapter V (§ 292 et seq.) of chapter 6A of Title 42, The Public Health and Welfare; Title VIII of the Public Health Service Act was added by act Sept. 4, 1964, Pub. L. 88–581, § 2, 78 Stat. 908, and is classified generally to subchapter VI (§ 296 et seq.) of chapter 6A of Title 42; Title IX of the Public Health Service Act, which was added by act Oct. 6, 1965, Pub. L. 89–239, § 2, 79 Stat. 926, was classified generally to subchapter VII (§ 299 et seq.) of chapter 6A of Title 42, and was repealed by Pub. L. 99–117, § 12(d), Oct. 7, 1985, 99 Stat. 495. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (e). Pub. L. 107–217 substituted ''section 1302 of title 40'' for ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)''.

2000—Subsec. (h). Pub. L. 106–419 struck out subsec. (h) which read as follows: ''Not later than ninety days after the end of each fiscal year, the Secretary shall submit to the Congress a report on activities carried out under this chapter, including (1) an appraisal of the effectiveness of the programs authorized herein in carrying out their statutory purposes and the degree of cooperation from other sources, financial and otherwise, (2) an appraisal of the contributions of such programs in improving the quantity and quality of physicians and other health care personnel furnishing hospital care and medical services to veterans under this title, (3) a list of the approved but unfunded projects under this chapter and the funds needed for each such project, and (4) recommendations for the improvement or more effective administration of such programs, including any necessary legislation.''

1994—Subsec. (c). Pub. L. 103–446 substituted ''section 7312(a)'' for ''section 4112(a)''.

1991—Pub. L. 102–40, § 402(b)(2)(A), renumbered section 5070 of this title as this section.

Subsecs. (a) to (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–54 amended subsec. (e) as in effect immediately before the enactment of Pub. L. 102–40 by substituting ''5022(a)'' for ''5012(a)''.

Pub. L. 102–40, § 402(d)(1), amended subsec. (e) as amended by Pub. L. 102–54 by substituting ''8122(a)'' for ''5022(a)''. See above.

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

Pub. L. 102–40, § 403(b)(6), substituted ''7302'' for ''4101(b)''.

Subsecs. (g), (h). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1982—Subsec. (a). Pub. L. 97–295, § 4(94)(A), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'', struck out ''section 309 and'' after ''carried out under'', and inserted ''(42 U.S.C. 292 et seq.)'' after ''the Public Health Service Act''.

Subsec. (e). Pub. L. 97–295, § 4(94)(B), substituted ''(including equipment therein)'' for ''including equipment therein)'' and substituted ''of'' for ''entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes,' approved'' after ''section 321 of the Act''.

1980—Subsec. (e). Pub. L. 96–330 inserted '', but no such lease may be for a period of more than 50 years'' after ''with respect to any lease entered into pursuant to this chapter''.

1979—Subsec. (b). Pub. L. 96–151 substituted provisions prohibiting the Administrator from entering into any agreement under subchapter I after Sept. 30, 1979, for provisions prohibiting the Administrator from entering into any agreement under subchapter I or to make any grant, etc., under subchapter II or III after end of seventh calendar year after the calendar year in which this chapter takes effect.

1976—Subsec. (e). Pub. L. 94–581, § 116(1), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 94–581, §§ 116(1), 210(f)(1), redesignated former subsec. (e) as (f) and substituted ''steps the Administrator has taken'' for ''steps he has taken''. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 94–581, § 116(1), redesignated former subsec. (f) as (g).

Subsec. (h). Pub. L. 94–581, § 116(2), added subsec. (h).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

SHORT TITLE

For short title of Pub. L. 92–541, Oct. 24, 1972, 86 Stat. 1101, which enacted this chapter, see Short Title of 1972 Amendments note set out under section 101 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER I—PILOT PROGRAM FOR ASSISTANCE IN THE ESTABLISHMENT OF NEW STATE MEDICAL SCHOOLS

§ 8211. Declaration of purpose

The purpose of this subchapter is to authorize the Secretary to implement a pilot program under which the Secretary may provide assistance in the establishment of new State medical schools at colleges or universities which are primarily supported by the States in which they are located if such schools are located in proximity to, and operated in conjunction with, Department medical facilities.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1102, § 5071; amended Pub. L. 94–581, title II, § 210(f)(2), Oct. 21, 1976, 90 Stat. 2865; renumbered § 8211, Pub. L. 102–40, title IV, § 402(b)(2)(B), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5071 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places and substituted ''Department'' for ''Veterans' Administration''.

1976—Pub. L. 94–581 substituted ''the Administrator'' for ''he''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8212. Authorization of appropriations

(a) There is authorized to be appropriated $25,000,000 for the fiscal year ending June 30, 1973, and a like sum for each of the six succeeding fiscal years. Sums appropriated pursuant to this section shall be used for making grants pursuant to section 8213 of this title.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1102, § 5072; renumbered § 8212 and amended Pub. L. 102–40, title IV, § 402(b)(2)(B), (d)(1), May 7, 1991, 105 Stat. 239.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(2)(B), renumbered section 5072 of this title as this section.

Subsec. (a). Pub. L. 102–40, § 402(d)(1), substituted ''8213'' for ''5073''.

§ 8213. Pilot program assistance

(a) Subject to subsection (b) of this section, the Secretary may enter into an agreement to provide to any college or university which is primarily supported by the State in which it is located (hereinafter in this subchapter referred to as ''institution'') the following assistance to enable such institution to establish a new medical school:

(1) The extension, alteration, remodeling, improvement, or repair of buildings and structures (including, as part of a lease made under paragraph (1), the provision of equipment) provided under paragraph (1) to the extent necessary to make them suitable for use as medical school facilities.

(2) The making of grants to assist the institution to pay the cost of the salaries of the faculty of such school during the initial 12-month period of operation of the school and the next six such 12-month periods, but payment under this paragraph may not exceed an amount equal to—

(A) 90 percent of the cost of faculty salaries during the first 12-month period of operation,

(B) 90 percent of such cost during the second such period,

(C) 90 percent of such cost during the third such period,

(D) 80 percent of such cost during the fourth such period,

(E) 70 percent of such cost during the fifth such period,

(F) 60 percent of such cost during the sixth such period, and

(G) 50 percent of such cost during the seventh and eighth such periods.

(b)(1) The Secretary may not enter into any agreement under subsection (a) of this section unless the Secretary finds, and the agreement includes satisfactory assurances, that—

(A) there will be adequate State or other financial support for the proposed school;

(B) the overall plans for the school meet such professional and other standards as the Secretary deems appropriate;

(C) the school will maintain such arrangements with the Department medical facility with which it is associated (including but not limited to such arrangements as may be made under subchapter IV of chapter 81 of this title) as will be mutually beneficial in the carrying out of the mission of the medical facility and the school; and

(D) on the basis of consultation with the appropriate accreditation body or bodies approved for such purpose by the Secretary of Education, there is reasonable assurance that, with the aid of an agreement under subsection (a) of this section, such school will meet the accreditation standards of such body or bodies within a reasonable time.

(2) Any agreement entered into by the Secretary under this subchapter shall contain such terms and conditions (in addition to those imposed pursuant to section 8201(e) of this title and subsection (b)(1) of this section) as the Secretary deems necessary and appropriate to protect the interest of the United States.

(c) If the Secretary, in accordance with such regulations as the Secretary shall prescribe, determines that any school established with assistance under this chapter—

(1) is not accredited and fails to gain appropriate accreditation within a reasonable period of time;

(2) is accredited but fails substantially to carry out the terms of the agreement entered into under this chapter; or

(3) is no longer operated for the purpose for which such assistance was granted,

the Secretary shall be entitled to recover from the recipient of assistance under this chapter

the facilities of such school which were established with assistance under this chapter. In order to recover such facilities the Secretary may bring an action in the district court of the United States for the district in which such facilities are situated.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1102, § 5073; amended Pub. L. 94–581, title I, § 116(3), (4), title II, § 210(f)(3), Oct. 21, 1976, 90 Stat. 2854, 2865; Pub. L. 97–15, June 17, 1981, 95 Stat. 99; Pub. L. 97–295, § 4(95)(B), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 99–576, title VII, § 702(16), Oct. 28, 1986, 100 Stat. 3302; renumbered § 8213 and amended Pub. L. 102–40, title IV, § 402(b)(2)(B), (d)(1), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(2)(B), renumbered section 5073 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in introductory provisions.

Subsec. (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (b)(1)(C). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b)(2). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–40, § 402(d)(1), substituted ''8201(e)'' for ''5070(e)''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

1986—Subsec. (a)(2). Pub. L. 99–576 substituted ''12-month'' for ''twelve-month'' wherever appearing in introductory provisions and in subpar. (A) and ''percent'' for ''per centum'' in subpars. (A) to (G).

1982—Subsec. (b)(1)(D). Pub. L. 97–295 substituted ''Secretary of Education'' for ''Commissioner of Education of the Department of Health, Education, and Welfare''.

1981—Subsec. (a)(2)(G). Pub. L. 97–15 substituted ''seventh and eighth such periods'' for ''seventh such period''.

1976—Subsec. (a). Pub. L. 94–581, § 116(3), redesignated pars. (2) and (3) as (1) and (2), respectively. Former par. (1), which authorized the leasing of such land, buildings, and structures under the control of the Veterans' Administration as might be necessary for a new medical school, was struck out. See section 5070(e) of this title.

Subsec. (b)(1). Pub. L. 94–581, § 210(f)(3)(A), substituted ''the Administrator'' for ''he'' in provisions preceding subpar. (A).

Subsec. (b)(2). Pub. L. 94–581, §§ 116(4), 210(f)(3)(A), substituted ''section 5070(e) of this title and subsection (b)(1) of this section'' for ''subsections (a)(1) and (b)(1) of this section'' and ''as the Administrator deems'' for ''as he deems''.

Subsec. (c). Pub. L. 94–581, § 210(f)(3)(B), substituted ''the Administrator'' for ''he'' in provisions preceding par. (1) and in provisions following par. (3).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8214. Limitations

The Secretary may not use the authority under this subchapter to assist in the establishment of more than eight new medical schools. Such schools shall be located in geographically dispersed areas of the United States.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1104, § 5074; renumbered § 8214, Pub. L. 102–40, title IV, § 402(b)(2)(B), May 7, 1991, 105 Stat. 239; amended Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5074 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

SUBCHAPTER II—GRANTS TO AFFILIATED MEDICAL SCHOOLS

§ 8221. Declaration of purpose

The purpose of this subchapter is to authorize the Secretary to carry out a program of grants to medical schools which have maintained affiliations with the Department in order to assist such schools to expand and improve their training capacities and to cooperate with institutions of the types assisted under subchapter III of this chapter in carrying out the purposes of such subchapter.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1104, § 5081; renumbered § 8221, Pub. L. 102–40, title IV, § 402(b)(2)(C), May 7, 1991, 105 Stat. 239; amended Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5081 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

§ 8222. Authorization of appropriations

(a) There is authorized to be appropriated for carrying out programs authorized under this chapter $50,000,000 for the fiscal year ending June 30, 1973; a like sum for each of the six succeeding fiscal years; $15,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; and $30,000,000 for the fiscal year ending September 30, 1982.

(b) Sums appropriated pursuant to subsection (a) of this section shall remain available until the end of the sixth fiscal year following the fiscal year for which they are appropriated.

(c) There is authorized to be appropriated for fiscal year 1979 to carry out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Secretary has entered into agreements under subchapter I of this chapter supplemental grants for which the Secretary had, before May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Secretary before May 1, 1978, for grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such subchapters III and IV until the full amounts for which applications had

been so approved have been obligated under such subchapter I.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1104, § 5082; amended Pub. L. 95–520, § 7, Oct. 26, 1978, 92 Stat. 1822; Pub. L. 96–151, title I, § 103(b)(1), Dec. 20, 1979, 93 Stat. 1093; renumbered § 8222, Pub. L. 102–40, title IV, § 402(b)(2)(C), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5082 of this title as this section.

Subsec. (c). Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1979—Subsec. (a). Pub. L. 96–151 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1980 through Sept. 30, 1982.

1978—Subsec. (c). Pub. L. 95–520 added subsec. (c).

§ 8223. Grants

(a) Any medical school which is affiliated with the Department under an agreement entered into pursuant to this title may apply to the Secretary for a grant under this subchapter to assist such school, in part, to carry out, through the Department medical facility with which it is affiliated, projects and programs in furtherance of the purposes of this subchapter, except that no grant shall be made for the construction of any building which will not be located on land under the jurisdiction of the Secretary. Any such application shall contain such information in such detail as the Secretary deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Secretary only upon the Secretary's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the medical education (including continuing education) program of the school;

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Secretary may require to carry out the Secretary's functions under this subchapter, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1104, § 5083; amended Pub. L. 94–581, title II, §§ 207, 210(f)(4), Oct. 21, 1976, 90 Stat. 2860, 2865; Pub. L. 96–151, title I, § 103(b)(2), Dec. 20, 1979, 93 Stat. 1093; renumbered § 8223, Pub. L. 102–40, title IV, § 402(b)(2)(C), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5083 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

1979—Subsec. (b)(1). Pub. L. 96–151 struck out provisions relating to requirement that a substantial increase in number of medical students attending such school result from approval of grant.

1976—Subsec. (a). Pub. L. 94–581, § 207, substituted ''pursuant to this title'' for ''pursuant to subchapter IV of chapter 81 of this title''.

Subsec. (b). Pub. L. 94–581, § 210(f)(4), substituted ''the Administrator's'' for ''his'' in provisions preceding par. (1) and in par. (4).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

SUBCHAPTER III—ASSISTANCE TO PUBLIC AND NONPROFIT INSTITUTIONS OF HIGHER LEARNING, HOSPITALS AND OTHER HEALTH MANPOWER INSTITUTIONS AFFILIATED WITH THE DEPARTMENT TO INCREASE THE PRODUCTION OF PROFESSIONAL AND OTHER HEALTH PERSONNEL

AMENDMENTS

1991—Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''DEPARTMENT'' for ''VETERANS' ADMINISTRATION''.

§ 8231. Declaration of purpose

The purpose of this subchapter is to authorize the Secretary to carry out a program of grants to provide assistance in the establishment of cooperative arrangements among universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions affiliated with the Department, designed to coordinate, improve, and expand the training of professional and technical allied health and paramedical personnel, and to assist in developing and evaluating new health careers, interdisciplinary approaches and career advancement opportunities, so as to improve and expand allied and other health manpower utilization.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1105, § 5091; renumbered § 8231, Pub. L. 102–40, title IV, § 402(b)(2)(D), May 7, 1991, 105 Stat. 239; amended Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5091 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

§ 8232. Definition

For the purpose of this subchapter, the term ''eligible institution'' means any nonprofit educational facility or other public or nonprofit in-

stitution, including universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions for the training or education of allied health or other health personnel affiliated with the Department for the conduct of or the providing of guidance for education and training programs for health manpower.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1105, § 5092; renumbered § 8232, Pub. L. 102–40, title IV, § 402(b)(2)(D), May 7, 1991, 105 Stat. 239; amended Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5092 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration''.

§ 8233. Grants

(a) Any eligible institution may apply to the Secretary for a grant under this subchapter to assist such institution to carry out through the Department medical facility with which it is, or will become affiliated, educational and clinical projects and programs, matching the clinical requirements of the facility to the health manpower training potential of the eligible institution, for the expansion and improvement of such institution's capacity to train health manpower, including physicians' assistants, nurse practitioners, and other new types of health personnel in furtherance of the purposes of this subchapter. Any such application shall contain a plan to carry out such projects and programs and such other information in such detail as the Secretary deems necessary and appropriate.

(b) An application for a grant under this section may be approved by the Secretary only upon the Secretary's determination that—

(1) the proposed projects and programs for which the grant will be made will make a significant contribution to improving the education (including continuing education) or training program of the eligible institution;

(2) the application contains or is supported by adequate assurance that any Federal funds made available under this subchapter will be supplemented by funds or other resources available from other sources, whether public or private;

(3) the application sets forth such fiscal control and accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds expended under this subchapter; and

(4) the application provides for making such reports, in such form and containing such information, as the Secretary may require to carry out the Secretary's functions under this subchapter, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1106, § 5093; amended Pub. L. 94–581, title II, § 210(f)(5), Oct. 21, 1976, 90 Stat. 2866; Pub. L. 96–330, title IV, § 405, Aug. 26, 1980, 94 Stat. 1052; renumbered § 8233, Pub. L. 102–40, title IV, § 402(b)(2)(D), May 7, 1991, 105 Stat. 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5093 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

1980—Subsec. (b)(1). Pub. L. 96–330 struck out ''and will result in a substantial increase in the number of students trained at such institution, provided that there is reasonable assurance from a recognized accrediting body or bodies approved for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare that the increase in the number of students will not threaten any existing accreditation or otherwise compromise the quality of the training at such institution'' after ''training program of the eligible institution''.

1976—Subsec. (b). Pub. L. 94–581 substituted ''the Administrator's'' for ''his'' in provisions preceding par. (1) and in par. (4).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

SUBCHAPTER IV—EXPANSION OF DEPARTMENT HOSPITAL EDUCATION AND TRAINING CAPACITY

AMENDMENTS

1991—Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''DEPARTMENT'' for ''VETERANS' ADMINISTRATION''.

§ 8241. Expenditures to remodel and make special allocations to Department hospitals for health manpower education and training

Out of funds appropriated to the Department pursuant to the authorization in section 8222 of this title, the Secretary may expend such sums as the Secretary deems necessary, not to exceed 30 per centum thereof, for (1) the necessary extension, expansion, alteration, improvement, remodeling, or repair of Department buildings and structures (including provision of initial equipment, replacement of obsolete or worn-out equipment, and, where necessary, addition of classrooms, lecture facilities, laboratories, and other teaching facilities) to the extent necessary to make them suitable for use for health manpower education and training in order to carry out the purpose set forth in section 7302, and (2) special allocations to Department hospitals and other medical facilities for the development or initiation of improved methods of education and training which may include the development or initiation of plans which reduce the period of required education and training for health personnel but which do not adversely affect the quality of such education or training.

(Added Pub. L. 92–541, § 2(a), Oct. 24, 1972, 86 Stat. 1106, § 5096; amended Pub. L. 94–581, title II, § 210(f)(6), Oct. 21, 1976, 90 Stat. 2866; renumbered § 8241 and amended Pub. L. 102–40, title IV,

§§ 402(b)(2)(E), (d)(1), 403(b)(7), May 7, 1991, 105 Stat. 239, 240; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(2)(E), renumbered section 5096 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in section catchline and wherever appearing in text.

Pub. L. 102–40, § 403(b)(7), substituted ''7302'' for ''4101(b)''.

Pub. L. 102–40, § 402(d)(1), substituted ''8222'' for ''5082''.

1976—Pub. L. 94–581 substituted ''the Administrator'' for ''he''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

CHAPTER 83—ACCEPTANCE OF GIFTS AND BEQUESTS

Sec.
8301. Authority to accept gifts, devises, and bequests.
8302. Legal proceedings.
8303. Restricted gifts.
8304. Disposition of property.
8305. Savings provision.

AMENDMENTS

1991—Pub. L. 102–40, title IV, § 402(c)(1), May 7, 1991, 105 Stat. 239, renumbered items 5101 to 5105 as 8301 to 8305, respectively.

§ 8301. Authority to accept gifts, devises, and bequests

The Secretary may accept devises, bequests, and gifts, made in any manner, with respect to which the testator or donor shall have indicated the intention that such property shall be for the benefit of groups of persons formerly in the active military, naval, or air service who by virtue of such service alone, or disability suffered therein or therefrom, are or shall be patients or members of any one or more hospitals or homes operated by the United States Government, or has indicated the intention that such property shall be for the benefit of any such hospital or home, or shall be paid or delivered to any official, as such, or any agency in administrative control thereof. The Secretary may also accept, for use in carrying out all laws administered by the Secretary, gifts, devises, and bequests which will enhance the Secretary's ability to provide services or benefits.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1254, § 5101; Pub. L. 99–576, title VII, § 701(89), Oct. 28, 1986, 100 Stat. 3299; renumbered § 8301, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 102–86, title V, § 504, Aug. 14, 1991, 105 Stat. 426.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5101 of this title as this section.

Pub. L. 102–86 inserted at end ''The Secretary may also accept, for use in carrying out all laws administered by the Secretary, gifts, devises, and bequests which will enhance the Secretary's ability to provide services or benefits.''

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

1986—Pub. L. 99–576 substituted ''the'' for ''his'' before ''intention'' in two places.

§ 8302. Legal proceedings

For the purpose of acquiring title to and possession of any property which the Secretary is by this chapter authorized to accept, the Secretary may initiate and appear in any appropriate legal proceedings, and take such steps therein or in connection therewith as in the Secretary's discretion may be desirable and appropriate to reduce said property to possession. The Secretary may incur such expenses incident to such proceedings as the Secretary deems necessary or appropriate, which shall be paid as are other administrative expenses of the Department. All funds received by devise, bequest, gift, or otherwise, for the purposes contemplated in this chapter, including net proceeds of sales authorized by this chapter, shall be deposited with the Treasurer of the United States to the credit of the General Post Fund.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1254, § 5102; Pub. L. 99–576, title VII, § 701(90), Oct. 28, 1986, 100 Stat. 3299; renumbered § 8302, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5102 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing, ''Secretary's'' for ''Administrator's'', and ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''he'' in two places, ''the Administrator's'' for ''his'', and ''The Administrator'' for ''He''.

§ 8303. Restricted gifts

Disbursements from the General Post Fund shall be made on orders by and within the discretion of the Secretary and in the manner prescribed in section 8523 of this title; except that (1) if the testator or donor has directed or shall direct that the devise, bequest, or gift be devoted to a particular use authorized by this chapter, the same, less expenses incurred, or the net proceeds thereof, shall be used or disbursed as directed, except that a precatory direction shall be fulfilled only insofar as may be proper or practicable; and (2) if the testator or donor shall have indicated the desire that the devise, bequest, or gift shall be for the benefit of persons in hospitals or homes, or other institutions operated by the United States but under the jurisdiction of an official other than the Secretary, the same, less expenses incurred, or the net proceeds thereof which may come into possession of the Secretary, shall be disbursed by transfer to the governing authorities of such institution, or otherwise, in such manner as the Secretary may determine, for the benefit of the persons in the institution indicated by the testator or donor, for proper purposes, as nearly as practicable in conformity with such desire of the testator or donor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1255, § 5103; Pub. L. 99–576, title VII, § 701(91), Oct. 28, 1986, 100 Stat. 3299; renumbered § 8303 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5103 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' wherever appearing.

Pub. L. 102–40, § 402(d)(1), substituted ''8523'' for ''5223''.

1986—Pub. L. 99–576 substituted ''the'' for ''his'' in three places.

§ 8304. Disposition of property

If the Secretary receives any property other than moneys as contemplated by this chapter, the Secretary is authorized in the Secretary's discretion to sell, assign, transfer, and convey the same, or any interest therein claimed by virtue of such devise, bequest, or gift, for such price and upon such terms as the Secretary deems advantageous (including consent to partition of realty and compromise of contested claim of title) and the Secretary's assignment, deed, or other conveyance of any such property, executed in the name and on behalf of the United States, shall be valid to pass to the purchaser thereof such title to said property as the United States, beneficially or as trustee of the General Post Fund, may have by virtue of any such devise, bequest, or gift, and the proceedings incident thereto, subject to the conditions, limitations, and provisions of the instruments so executed by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1255, § 5104; Pub. L. 99–576, title VII, § 701(92), Oct. 28, 1986, 100 Stat. 3299; renumbered § 8304, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5104 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''he'' in two places, and ''the Administrator's'' for ''his'' in two places.

§ 8305. Savings provision

(a) Nothing contained in this chapter shall be construed to repeal or modify any law authorizing the acceptance of devises, bequests, or gifts to the United States for their own use and benefit or for any particular purpose specified by the donors or testators.

(b) Whenever the United States receives property and it appears that it is, or shall have been, the intention of the testator or donor that such devise, bequest, or gift be for the benefit of those persons described in section 8301 of this title, or any particular hospital or other institution operated primarily for their benefit, such property or the proceeds thereof shall be credited to the General Post Fund, and shall be used or disbursed in accordance with the provisions of this chapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1255, § 5105; renumbered § 8305 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239.)

AMENDMENTS

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5105 of this title as this section.

Subsec. (b). Pub. L. 102–40, § 402(d)(1), substituted ''8301'' for ''5101''.

CHAPTER 85—DISPOSITION OF DECEASED VETERANS' PERSONAL PROPERTY

SUBCHAPTER I—PROPERTY LEFT ON DEPARTMENT FACILITY

Sec.
8501. Vesting of property left by decedents.
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SUBCHAPTER II—DEATH WHILE PATIENT OF DEPARTMENT FACILITY

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8528. Investment of the Fund.

AMENDMENTS

1991—Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''DEPARTMENT'' for ''VETERANS' ADMINISTRATION'' in headings for subchapters I and II.

Pub. L. 102–40, title III, § 305(b)(2), title IV, § 402(c)(1), May 7, 1991, 105 Stat. 210, 239, renumbered items 5201 to 5228 as 8501 to 8528, respectively, and substituted ''PATIENT'' for ''INMATE'' in heading for subchapter II.

SUBCHAPTER I—PROPERTY LEFT ON DEPARTMENT FACILITY

AMENDMENTS

1991—Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''DEPARTMENT'' for ''VETERANS' ADMINISTRATION''.

§ 8501. Vesting of property left by decedents

(a) Personal property left by any decedent upon premises used as a Department facility, which premises are subject to the exclusive legislative jurisdiction of the United States and are within the exterior boundaries of any State or dependency of the United States, shall vest and be disposed of as provided in this subchapter, except that—

(1) if such person died leaving a last will and testament probated under the laws of the place of such person's domicile or under the laws of the State or dependency of the United States within the exterior boundaries of which such premises or a part thereof may be, the personal property of such decedent situated upon such premises shall vest in the person or

persons entitled thereto under the provisions of such last will and testament; and

(2) if such person died leaving any such property not disposed of by a last will and testament probated in accord with the provisions of paragraph (1) such property shall vest in the persons entitled to take such property by inheritance under and upon the conditions provided by the law of the decedent's domicile. This paragraph shall not apply to property to which the United States is entitled except where such title is divested out of the United States.

(b) Any officer or employee of the United States in possession of any such property may deliver same to the executor (or the administrator with will annexed) who shall have qualified in either jurisdiction as provided in subsection (a)(1); or if none such then to the domiciliary administrator or to any other qualified administrator who shall demand such property. When delivery shall have been made to any such executor or administrator in accordance with this subsection, neither the United States nor any officer or employee thereof shall be liable therefor.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1256, § 5201; Pub. L. 99–576, title VII, § 701(93), Oct. 28, 1986, 100 Stat. 3299; renumbered § 8501, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5201 of this title as this section.

Subsec. (a). Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' in introductory provisions.

1986—Subsec. (a)(1). Pub. L. 99–576 substituted ''such person's'' for ''his''.

§ 8502. Disposition of unclaimed personal property

(a) Notwithstanding the provisions of section 8501 of this title, the Secretary may dispose of the personal property of such decedent left or found upon such premises as hereafter provided in this subchapter.

(b) If any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the penultimate sentence of section 1781(b) of this title, upon such person's last admission to, or during such person's last period of maintenance in, a Department facility, has personal property situated on such facility and shall have designated in writing a person (natural or corporate) to receive such property when such veteran, dependent or survivor dies, the Secretary or employee of the Department authorized by the Secretary so to act, may transfer possession of such personal property to the person so designated. If there exists no person so designated by such veteran, dependent, or survivor or if the one so designated declines to receive such property, or failed to request such property within ninety days after the Department mails to such designate a notice of death and of the fact of such designation, a description of the property, and an estimate of transportation cost, which shall be paid by such designate if required under the regulations hereinafter mentioned, or if the Secretary declines to transfer possession to such designate, possession of such property may in the discretion of the Secretary or the Secretary's designated subordinate, be transferred to the following persons in the order and manner herein specified unless the parties otherwise agree in writing delivered to the Department, namely, executor or administrator, or if no notice of appointment received, to the spouse, children, grandchildren, parents, grandparents, siblings of the veteran. If claim is made by two or more such relatives having equal priorities, as hereinabove prescribed, or if there are conflicting claims the Secretary or the Secretary's designee may in such case deliver the property either jointly or separately in equal values, to those equally entitled thereto or may make delivery as may be agreed upon by those entitled, or may in the discretion of the Secretary or the Secretary's designee withhold delivery from them and require the qualification of an administrator or executor of the veterans' estate and thereupon make delivery to such.

(c) If the property of any decedent is not so delivered or claimed and accepted the Secretary or the Secretary's designee may dispose of such property by public or private sale in accordance with the provisions of this subchapter and regulations prescribed by the Secretary.

(d) All sales authorized by this subchapter shall be for cash upon delivery at the premises where sold and without warranty, express or implied. The proceeds of such sales after payment of any expenses incident thereto as may be prescribed by regulations, together with any other moneys left or found on a facility, not disposed of in accordance with this subchapter, shall be credited to the General Post Fund, National Homes, Department of Veterans Affairs, a trust fund provided for in section 1321(a)(45) of title 31. In addition to the purposes for which such fund may be used under the existing law, disbursements may be made therefrom as authorized by the Secretary by regulation or otherwise for the purpose of satisfying any legal liability incurred by any employee in administering the provisions of this subchapter, including any expense incurred in connection therewith. Legal liability shall not exist when delivery or sale shall have been made in accordance with this subchapter.

(e) If, notwithstanding such sale, a claim is filed with the Secretary within five years after notice of sale as herein required, by or on behalf of any person or persons who if known would have been entitled to the property under section 8501 of this title or to possession thereof under this section, the Secretary shall determine the person or persons entitled under the provisions of this subchapter and may pay to such person or persons so entitled the proceeds of sale of such property, less expenses. Such payment shall be made out of the said trust fund, and in accord with the provisions of this section or section 8501 of this title. Persons under legal disability to sue in their own name may make claim for the proceeds of sale of such property at any time within five years after termination of such legal disability.

(f) Any such property, the sale of which is authorized under this subchapter and which remains unsold, may be used, destroyed, or other-

wise disposed of in accordance with regulations promulgated by the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1257, § 5202; Pub. L. 94–581, title II, § 208(a), Oct. 21, 1976, 90 Stat. 2860; Pub. L. 97–258, § 3(k)(9), Sept. 13, 1982, 96 Stat. 1066; Pub. L. 99–576, title VII, § 701(94), Oct. 28, 1986, 100 Stat. 3299; renumbered § 8502 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–54, § 14(f)(11), June 13, 1991, 105 Stat. 288; Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 103–446, title XII, § 1201(i)(11), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 107–135, title II, § 208(e)(9), Jan. 23, 2002, 115 Stat. 2464.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–135 substituted ''the penultimate sentence of section 1781(b)'' for ''the last sentence of section 1713(b)''.

1994—Subsec. (d). Pub. L. 103–446 substituted ''Department of Veterans Affairs,'' for ''Department,''.

1991—Pub. L. 102–40, § 402(b)(1), renumbered section 5202 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40, § 402(d)(1), substituted ''8501'' for ''5201''.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1713(b)'' for ''613(b)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

Pub. L. 102–54 amended subsec. (b) as in effect immediately before the enactment of Pub. L. 102–40 by inserting a comma in second sentence before ''namely,''.

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

Subsec. (d). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

Pub. L. 102–40, § 402(d)(1), substituted ''8501'' for ''5201'' in two places.

Subsec. (f). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1986—Subsec. (b). Pub. L. 99–576, § 701(94)(A), in first sentence substituted ''such person's last'' for ''his last'' in two places, inserted ''has personal property situated on such facility and'' before ''shall have designated'', substituted ''to receive such property when such veteran, dependent or survivor dies,'' for ''to whom he desires his personal property situated upon such facility to be delivered, upon the death of such veteran'', and substituted ''the Administrator'' for ''him'' after ''authorized by''.

Pub. L. 99–576, § 701(94)(B)(i)–(iv), in second sentence substituted ''by such veteran, dependent, or survivor'' for ''by the veteran'', struck out ''if he has'' before ''failed to request'', and substituted ''the Administrator's'' for ''his'' and ''in writing delivered to the Veterans' Administration'' for ''as provided in this subchapter,''.

Pub. L. 99–576, § 701(94)(B)(v), which directed that second sentence of subsec. (b) be amended by substituting ''children, grandchildren, parents, grandparents, siblings'' for ''child, grandchild, mother, father, grandmother, grandfather, brother or sister'', was executed by substituting the new provisions for ''child, grandchild, mother, father, grandmother, grandfather, brother, or sister'', to reflect the probable intent of Congress and the fact that a comma appears after ''brother'' in the former provisions.

Pub. L. 99–576, § 701(94)(C), struck out third sentence which read as follows: ''In case two or more of those named above request the property, only one shall be entitled to possession thereof and in the order hereinbefore set forth, unless they otherwise agree in writing delivered to the Veterans' Administration.''

Pub. L. 99–576, § 701(94)(D), in fourth sentence substituted ''the Administrator's designee may in such case deliver the property either jointly or separately in equal values, to those equally entitled thereto'' for ''his designee may in such case select the one to receive such possession,'' and ''in the discretion of the Administrator or the Administrator's designee'' for ''in his discretion''.

Subsec. (c). Pub. L. 99–576, § 701(94)(E), substituted ''the Administrator's'' for ''his''.

1982—Subsec. (d). Pub. L. 97–258 substituted ''section 1321(a)(45) of title 31'' for ''section 725s(a)(45) of title 31''.

1976—Subsec. (b). Pub. L. 94–581 inserted ''or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title,'' after ''(admitted as a veteran),''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8503. Notice of provisions of this subchapter

All persons having or bringing personal property on the premises of a Department facility shall be given reasonable notice of the provisions of this subchapter. In case of a mentally incompetent person, notice hereof shall be given the guardian or other person having custody or control of such person or, if none, to such person's nearest relative if known. The admission to or continued maintenance in such facility after reasonable notice of the provisions of this subchapter shall constitute consent to the provisions hereof. The death of any person on any such facility or the leaving of property thereon shall be prima facie evidence of a valid agreement for the disposition of such property in accordance with the provisions of this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258, § 5203; Pub. L. 99–576, title VII, § 701(95), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8503, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5203 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''such person's'' for ''his'' in second sentence.

§ 8504. Disposition of other unclaimed property

Any other unclaimed property found on the premises under the control of the Department shall be stored by the officer in charge of such premises and may be sold, used, destroyed, or otherwise disposed of in accordance with regulations promulgated by the Secretary if the owner thereof fails to claim same within ninety days. If undisposed of, the same may be reclaimed by the owner, such person's personal representative or next of kin, upon payment of reasonable storage charges prescribed by regulations. If sold, the net proceeds thereof shall be credited to said

post fund to be expended as other assets of such fund. The person who was entitled to such property, or such person's legal representative, or assignee, shall be paid the proceeds of sale thereof, less expenses if claim therefor be made within five years from the date of finding. If the owner shall have died intestate without creditors or next of kin surviving, such proceeds shall not be paid to such person's legal representative.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258, § 5204; Pub. L. 99–576, title VII, § 701(96), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8504, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5204 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''such person's'' for ''his'' in three places.

§ 8505. Sale or other disposition of property

Any unclaimed personal property as described in section 8502 of this title of veterans who have heretofore died or who may hereafter die while maintained as such in a Department facility, and also any unclaimed property heretofore or hereafter found or situated in such facility, may be sold, used, destroyed, or otherwise disposed of in accordance with this subchapter, and subject to regulations promulgated by the Secretary pursuant hereto; and the net proceeds of sale thereof shall be credited and be subject to disbursement as provided in this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258, § 5205; renumbered § 8505 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5205 of this title as this section and substituted ''8502'' for ''5202''.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration''.

§ 8506. Notice of sale

At least ninety days before any sale pursuant to this subchapter, written or printed notice thereof describing the property to be sold shall be mailed to the owner of the property or, if deceased, to the owner's executor or administrator, or to the nearest kin, if any such appear by the records of the Department. If none such appears from said records, similar notice shall be posted at the facility where the death occurred or property shall have been found (if in existence) and at the place where such property is situated at the time of such notice, and also at the place where probate notices are posted in the county wherein the sale is to be had. The person posting such notice shall make an affidavit setting forth the time and place of such posting and attaching thereto a copy of such notice, and such affidavit shall be prima facie evidence of such posting and admissible in evidence as proof of the same.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1258, § 5206; Pub. L. 99–576, title VII, § 701(97), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8506, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5206 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''the owner's'' for ''his'' before ''executor''.

§ 8507. Payment of small shipping charges

Upon receipt of a proper claim for such property under the provisions of this subchapter the Secretary is hereby authorized, in the Secretary's discretion and in accordance with regulations prescribed by the Secretary, to pay mailing or shipping charges not to exceed $25 in the case of each deceased veteran as hereinabove defined.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1259, § 5207; Pub. L. 99–576, title VII, § 701(98), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8507, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5207 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' in two places and ''Secretary's'' for ''Administrator's''.

1986—Pub. L. 99–576 substituted ''the Administrator's'' for ''his'' and ''prescribed by the Administrator'' for ''by him promulgated''.

§ 8508. Relinquishment of Federal jurisdiction

Subject to the provisions of this subchapter and to the extent necessary to effectuate the purposes of this subchapter, there is hereby relinquished to the respective State or dependency of the United States such jurisdiction pertaining to the administration of estates of decedents as may have been ceded to the United States by said State or dependency of the United States respecting the Federal reservation on which is situated any Department facility while such facility is operated by the Department; such jurisdiction with respect to any such property on any such reservation to be to the same extent as if such premises had not been ceded to the United States. Nothing in this section shall be construed to deprive any State or dependency of the United States of any jurisdiction which it now has nor to give any State, possession, or dependency of the United States authority over any Federal official as such on such premises or otherwise.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1259, § 5208; renumbered § 8508, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5208 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' in two places.

§ 8509. Definitions

The term ''facility'' or ''Department facility'' as used in this subchapter means those facilities over which the Department has direct and exclusive administrative jurisdiction, including hospitals or other facilities on property owned or leased by the United States while operated by the Department.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1259, § 5209; renumbered § 8509, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5209 of this title as this section.

Pub. L. 102–83 substituted ''Department'' for ''Veterans' Administration'' wherever appearing.

§ 8510. Finality of decisions

Decisions by the Secretary under this subchapter shall not be reviewable administratively by any other officer of the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1259, § 5210; renumbered § 8510, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5210 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

SUBCHAPTER II—DEATH WHILE PATIENT OF DEPARTMENT FACILITY

AMENDMENTS

1991—Pub. L. 102–83, § 4(a)(3), (4), Aug. 6, 1991, 105 Stat. 404, substituted ''DEPARTMENT'' for ''VETERANS' ADMINISTRATION''.

Pub. L. 102–40, title III, § 305(b)(1), May 7, 1991, 105 Stat. 210, substituted ''PATIENT'' for ''INMATE''.

§ 8520. Vesting of property left by decedents

(a) Whenever any veteran (admitted as a veteran), or a dependent or survivor of a veteran receiving care under the penultimate sentence of section 1781(b) of this title, shall die while a member or patient in any facility, or any hospital while being furnished care or treatment therein by the Department, and shall not leave any surviving spouse, next of kin, or heirs entitled, under the laws of the decedent's domicile, to the decedent's personal property as to which such person dies intestate, all such property, including money and choses in action, owned by such person at the time of death and not disposed of by will or otherwise, shall immediately vest in and become the property of the United States as trustee for the sole use and benefit of the General Post Fund (hereinafter in this subchapter referred to as the ''Fund''), a trust fund prescribed by section 1321(a)(45) of title 31.

(b) The provisions of subsection (a) are conditions precedent to the initial, and also to the further furnishing of care or treatment by the Department in a facility or hospital. The acceptance and the continued acceptance of care or treatment by any veteran (admitted as a veteran to a Department facility or hospital) shall constitute an acceptance of the provisions and conditions of this subchapter and have the effect of an assignment, effective at such person's death, of such assets in accordance with and subject to the provisions of this subchapter and regulations issued in accordance with this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1259, § 5220; Pub. L. 94–581, title II, § 208(b), Oct. 21, 1976, 90 Stat. 2860; Pub. L. 97–258, § 3(k)(9), Sept. 13, 1982, 96 Stat. 1066; Pub. L. 99–576, title VII, § 701(99), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8520, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, §§ 4(a)(3), (4), 5(c)(1), Aug. 6, 1991, 105 Stat. 404, 406; Pub. L. 107–14, § 8(a)(16), June 5, 2001, 115 Stat. 35; Pub. L. 107–135, title II, § 208(e)(9), Jan. 23, 2002, 115 Stat. 2464.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–135 substituted ''the penultimate sentence of section 1781(b)'' for ''the last sentence of section 1713(b)''.

2001—Subsec. (a). Pub. L. 107–14 substituted ''hereinafter'' for ''hereafter''.

1991—Pub. L. 102–40 renumbered section 5220 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1713(b)'' for ''613(b)''.

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration''.

Subsec. (b). Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

1986—Subsec. (a). Pub. L. 99–576, § 701(99)(A), substituted ''any surviving'' for ''surviving him any'', ''the decedent's'' for ''his'' in two places, ''such person'' for ''he'', and ''owned by such person'' for ''owned by him''.

Subsec. (b). Pub. L. 99–576, § 701(99)(B), substituted ''such person's'' for ''his''.

1982—Subsec. (a). Pub. L. 97–258 substituted ''section 1321(a)(45) of title 31'' for ''section 725s(a)(45) of title 31''.

1976—Subsec. (a). Pub. L. 94–581 inserted '', or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title,'' after ''(admitted as a veteran)''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8521. Presumption of contract for disposition of personalty

The fact of death of a veteran (admitted as such), or a dependent or survivor of a veteran receiving care under the penultimate sentence of section 1781(b) of this title, in a facility or hospital, while being furnished care or treatment therein by the Department, leaving no spouse, next of kin, or heirs, shall give rise to a conclusive presumption of a valid contract for the disposition in accordance with this subchapter, but subject to its conditions, of all property described in section 8520 of this title owned by said decedent at death and as to which such person dies intestate.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1260, § 5221; Pub. L. 94–581, title II, § 208(c), Oct. 21, 1976, 90

Stat. 2860; Pub. L. 99–576, title VII, § 701(100), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8521 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, §§ 4(a)(3), (4), 5(c)(1), Aug. 6, 1991, 105 Stat. 404, 406; Pub. L. 107–135, title II, § 208(e)(9), Jan. 23, 2002, 115 Stat. 2464.)

AMENDMENTS

2002—Pub. L. 107–135 substituted ''the penultimate sentence of section 1781(b)'' for ''the last sentence of section 1713(b)''.

1991—Pub. L. 102–40 renumbered section 5221 of this title as this section and substituted ''8520'' for ''5220''.

Pub. L. 102–83 substituted ''1713(b)'' for ''613(b)'' and ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''such person'' for ''he''.

1976—Pub. L. 94–581 inserted '', or a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of this title,'' after ''(admitted as such)''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

§ 8522. Sale of assets accruing to the Fund

Any assets heretofore or hereafter accruing to the benefit of the Fund, other than money, but including jewelry and other personal effects, may be sold at the times and places and in the manner prescribed by regulations issued by the Secretary. Upon receipt of the purchase price the Secretary is authorized to deliver at the place of sale, said property sold, and upon request to execute and deliver appropriate assignments or other conveyances thereof in the name of the United States, which shall pass to the purchaser such title as decedent had at date of death. The net proceeds after paying any proper sales expense as determined by the Secretary shall forthwith be paid to the Treasurer of the United States to the credit of the Fund; and may be disbursed as are other moneys in the Fund by the Division of Disbursements, Treasury Department, upon order of said Secretary. Articles of personal adornment which are obviously of sentimental value, shall be retained and not sold or otherwise disposed of until the expiration of five years from the date of death of the veteran, without a claim therefor, unless for sanitary or other proper reasons it is deemed unsafe to retain same, in which event they may be destroyed forthwith. Any other articles coming into possession of the Secretary or the Secretary's representative by virtue of this subchapter which, under regulations promulgated by the Secretary, are determined to be unsalable may be destroyed forthwith or at the time prescribed by regulations, or may be used for the purposes for which disbursements might properly be made from the Fund, or if not usable, otherwise disposed of in accordance with regulations.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1260, § 5222; Pub. L. 99–576, title VII, § 701(101), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8522, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5222 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the Administrator'' for ''he'' in second sentence, and ''the Administrator's'' for ''his'' in last sentence.

TRANSFER OF FUNCTIONS

Division of Disbursements of Treasury Department consolidated into Fiscal Service of Treasury Department by section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees. See section 306 of Title 31, Money and Finance.

§ 8523. Disbursements from the Fund

Disbursements from the Fund shall be made by the Division of Disbursements, Treasury Department, upon the order and within the discretion of the Secretary for the benefit of members and patients while being supplied care or treatment by the Department in any facility or hospital. The authority contained in the preceding sentence is not limited to facilities or hospitals under direct administrative control of the Department. There shall be paid out of the assets of the decedent so far as may be the valid claims of creditors against the decedent's estate that would be legally payable therefrom in the absence of this subchapter and without the benefit of any exemption statute, and which may be presented to the Department within one year from the date of death, or within the time, to the person, and in the manner required or permitted by the law of the State wherein administration, if any, is had upon the estate of the deceased veteran; and also the proper expenses and costs of administration, if any. If the decedent's estate is insolvent the distribution to creditors shall be in accordance with the laws of the decedent's domicile, and the preferences and priorities prescribed thereby shall govern, subject to any applicable law of the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1260, § 5223; Pub. L. 99–576, title VII, § 701(102), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8523, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5223 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Department'' for ''Veterans' Administration'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the decedent's'' for ''his'' in two places.

TRANSFER OF FUNCTIONS

Division of Disbursements of Treasury Department consolidated into Fiscal Service of Treasury Department by section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees. See section 306 of Title 31, Money and Finance.

§ 8524. Disposal of remaining assets

The remainder of such assets or their proceeds shall become assets of the United States as

trustee for the Fund and disposed of in accordance with this subchapter. If there is administration upon the decedent's estate such assets, other than money, upon claim therefor within the time required by law, shall be delivered by the administrator of the estate to the Secretary or the Secretary's authorized representative, as upon final distribution; and upon the same claim there shall be paid to the Treasurer of the United States for credit to the Fund any such money, available for final distribution. In the absence of administration, any money, chose in action, or other property of the deceased veteran held by any person shall be paid or transferred to the Secretary upon demand by the Secretary or the Secretary's duly authorized representative, who shall deliver itemized receipt therefor. Such payment or transfer shall constitute a complete acquittance of the transferor with respect to any claims by any administrator, creditor, or next of kin of such decedent.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1261, § 5224; Pub. L. 99–576, title VII, § 701(103), Oct. 28, 1986, 100 Stat. 3300; renumbered § 8524, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5224 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'' and ''Secretary's'' for ''Administrator's'' wherever appearing.

1986—Pub. L. 99–576 substituted ''the Administrator's'' for ''his'' in two places, and ''the Administrator'' for ''him''.

§ 8525. Court actions

If necessary to obtain such assets the Secretary, through the Secretary's authorized attorneys, may bring and prosecute appropriate actions at law or other legal proceedings, the costs and expenses thereof to be paid as are other administrative expenses of the Department.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1261, § 5225; Pub. L. 99–576, title VII, § 701(104), Oct. 28, 1986, 100 Stat. 3301; renumbered § 8525, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5225 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'', ''Secretary's'' for ''Administrator's'', and ''Department'' for ''Veterans' Administration''.

1986—Pub. L. 99–576 substituted ''the Administrator's'' for ''his''.

§ 8526. Filing of claims for assets

Notwithstanding the crediting to said Fund of the assets, or proceeds thereof, of any decedent, whether upon determination by a court or the Department pursuant to the provisions of section 8520 of this title, any person claiming a right to such assets may within five years after the death of the decedent file a claim on behalf of such person and any other claiming with the Secretary. Upon receipt of due proof that any person was at date of death of the veteran entitled to the veteran's personal property, or a part thereof, under the laws of the State of domicile of the decedent, the Secretary may pay out of the Fund, but not to exceed the net amount credited thereto from said decedent's estate less any necessary expenses, the amount to which such person, or persons, was or were so entitled, and upon similar claim any assets of the decedent which shall not have been disposed of shall be delivered in kind to the parties legally entitled thereto. If any person so entitled is under legal disability at the date of death of such decedent, such five-year period of limitation shall run from the termination or removal of legal disability. In the event of doubt as to entitlement, the Secretary may cause administration or other appropriate proceedings to be instituted in any court having jurisdiction. In determining questions of fact or law involved in the adjudication of claims made under this section, no judgment, decree, or order entered in any action at law, suit in equity, or other legal proceeding of any character purporting to determine entitlement to said assets or any part thereof, shall be binding upon the United States or the Secretary or determinative of any fact or question involving entitlement to any such property or the proceeds thereof, or any part of the Fund, unless the Secretary has been seasonably served with notice and permitted to become a party to such suit or proceeding if the Secretary makes a request therefor within thirty days after such notice. Notice may be served in person or by registered mail or by certified mail upon the Secretary, or upon the Secretary's authorized attorney in the State wherein the action or proceedings may be pending. Notice may be waived by the Secretary or by the Secretary's authorized attorney, in which event the finding, judgment, or decree shall have the same effect as if the Secretary were a party and served with notice. Any necessary court costs or expenses if authorized by the Secretary may be paid as are other administrative expenses of the Department.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1261, § 5226; Pub. L. 86–507, § 1(33), June 11, 1960, 74 Stat. 202; Pub. L. 99–576, title VII, § 701(105), Oct. 28, 1986, 100 Stat. 3301; renumbered § 8526 and amended Pub. L. 102–40, title IV, § 402(b)(1), (d)(1), May 7, 1991, 105 Stat. 238, 239; Pub. L. 102–83, § 4(a)(3), (4), (b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5226 of this title as this section and substituted ''8520'' for ''5220''.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator'', ''Secretary's'' for ''Administrator's'', and ''Department'' for ''Veterans' Administration'' wherever appearing.

1986—Pub. L. 99–576 substituted ''such person'' for ''himself'' in first sentence, ''the veteran's'' for ''his'' in second sentence, ''the Administrator'' for ''he'' in fifth sentence, and ''the Administrator's authorized'' for ''his authorized'' in sixth and seventh sentences.

1960—Pub. L. 86–507 inserted ''or by certified mail'' after ''registered mail''.

§ 8527. Notice of provisions of subchapter

The Secretary shall prescribe a form of application for hospital treatment and domiciliary

care which shall include notice of the provisions of this subchapter.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1262, § 5227; renumbered § 8527, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102–83, § 4(b)(1), (2)(E), Aug. 6, 1991, 105 Stat. 404, 405.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5227 of this title as this section.

Pub. L. 102–83 substituted ''Secretary'' for ''Administrator''.

§ 8528. Investment of the Fund

Money in the Fund not required for current disbursements may be invested and reinvested by the Secretary of the Treasury in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1262, § 5228; renumbered § 8528, Pub. L. 102–40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238.)

AMENDMENTS

1991—Pub. L. 102–40 renumbered section 5228 of this title as this section.