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.)

§ 2413. Prohibition on certain demonstrations at cemeteries under control of the National Cemetery Administration and at Arlington National Cemetery

(a) PROHIBITION.—No person may carry out—

(1) a demonstration on the property of a cemetery under the control of the National Cemetery Administration or on the property of Arlington National Cemetery unless the demonstration has been approved by the cemetery superintendent or the director of the property on which the cemetery is located; or

(2) with respect to such a cemetery, a demonstration during the period beginning 60 minutes before and ending 60 minutes after a funeral, memorial service, or ceremony is held, any part of which demonstration—

(A)(i) takes place within 150 feet of a road, pathway, or other route of ingress to or egress from such cemetery property; and

(ii) includes, as part of such demonstration, any individual willfully making or assisting in the making of any noise or diversion that disturbs or tends to disturb the peace or good order of the funeral, memorial service, or ceremony; or

(B) is within 300 feet of such cemetery and impedes the access to or egress from such cemetery.

(b) DEMONSTRATION.—For purposes of this section, the term ''demonstration'' includes the following:

(1) Any picketing or similar conduct.

(2) Any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral, memorial service, or ceremony.

(3) The display of any placard, banner, flag, or similar device, unless such a display is part of a funeral, memorial service, or ceremony.

(4) The distribution of any handbill, pamphlet, leaflet, or other written or printed matter other than a program distributed as part of a funeral, memorial service, or ceremony.

(Added Pub. L. 109–228, § 2(a)(1), May 29, 2006, 120 Stat. 387.)

CONSTRUCTION

Pub. L. 109–228, § 2(b), May 29, 2006, 120 Stat. 388, provided that: ''Nothing in section 2413 of title 38, United States Code (as amended by subsection (a)), shall be construed as limiting the authority of the Secretary of Veterans Affairs, with respect to property under control of the National Cemetery Administration, or the Secretary of the Army, with respect to Arlington National Cemetery, to issue or enforce regulations that prohibit or restrict conduct that is not specifically covered by section 2413 of such title (as so added).''

PART III—READJUSTMENT AND RELATED BENEFITS

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AMENDMENTS

2008—Pub. L. 110–252, title V, § 5003(a)(2), June 30, 2008, 122 Stat. 2375, added item for chapter 33.

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.

[1] So in original. The period probably should not appear.

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

2008—Pub. L. 110–252, title V, § 5006(e)(1), June 30, 2008, 122 Stat. 2386, added item 3020 and struck out former item 3020 ''Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills.''

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 quali-

[1] So in original. Does not conform to section catchline.

fied 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, Navy 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; Pub. L. 109–163, div. A, title V, § 515(e)(2), Jan. 6, 2006, 119 Stat. 3236.)

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

2006—Par. (6)(C). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

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, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy; (II) for the convenience of the Government, if, in the case of an individual with an obligated period of service of two years, the individual completes not less than 20 months of continuous active duty under that period of obligated service, or, in the case of an individual with an obligated period of service of at least three years, the individual completes not less than 30 months of continuous active duty under that period of obligated service; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect

to the Coast Guard when it is not operating as a service in the Navy;

(B) as of December 31, 1989, is eligible for educational assistance benefits under chapter 34 of this title and was on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) after June 30, 1985, serves at least three years of continuous active duty in the Armed Forces; or

(ii) after June 30, 1985, is discharged or released from active duty (I) for a service-connected disability, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph; (II) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy; or

(C) as of December 31, 1989, was eligible for educational assistance benefits under chapter 34 of this title and—

(i) was not on active duty on October 19, 1984;

(ii) reenlists or reenters on a period of active duty after October 19, 1984; and

(iii) on or after July 1, 1985, either—

(I) serves at least three years of continuous active duty in the Armed Forces; or

(II) is discharged or released from active duty (aa) for a service-connected disability, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, for hardship, or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph, (bb) for the convenience of the Government, if the individual completed not less than 30 months of continuous active duty after that date, or (cc) involuntarily for the convenience of the Government as a result of a reduction in force, as 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; Pub. L. 109–444, §8(b)(2), Dec. 21, 2006, 120 Stat. 3313; Pub. L. 109–461, title X, §§1004(b)(2), 1006(b), Dec. 22, 2006, 120 Stat. 3466, 3468; Pub. L. 110–317, §6(c)(1), Aug. 29, 2008, 122 Stat. 3529.)

PRIOR PROVISIONS

Prior section 3011 was renumbered section 5111 of this title.

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

AMENDMENTS

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

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

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

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

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

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

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

Subsec. (a)(1)(B)(ii)(III). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

Subsec. (a)(1)(C)(ii). Pub. L. 107–330 struck out ''on or'' after ''active duty''.

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

2001—Subsec. (a)(1)(A)(i). Pub. L. 107–14, §7(a)(1), substituted ''(I) in the case of an individual whose obligated period of active duty is three years or more, serves at least three years of continuous active duty in the Armed Forces, or (II) in the case of an individual whose obligated period of active duty is less than three years, serves'' for ''serves an obligated period of active duty of''.

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

Subsec. (c)(3)(B). Pub. L. 107–103, §106(a), substituted ''$3,400'' for ''$2,000''.

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

Subsec. (e)(3). Pub. L. 107–14, §7(c)(1)(B), substituted ''multiples of $20'' for ''multiples of $4''.

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

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

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

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

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

''(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that (i) an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, and (ii) an individual described in clause (1)(A) of this subsection may meet such requirement by having successfully completed (or otherwise received academic credit for) the equivalent of such 12 semester hours before the end of the individual's initial obligated period of active duty; and''.

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

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

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

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

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

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

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

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

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

Subsec. (i). Pub. L. 105–368, §207(a), added subsec. (i).

1996—Subsec. (c)(2). Pub. L. 104–201, §556(a)(1), struck out ''or upon completion of a program of educational assistance under section 2107 of title 10'' after ''Coast Guard Academy''.

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

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

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

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

1992—Subsec. (a)(1)(B). Pub. L. 102–568, §302(a)(1), substituted ''at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service'' for ''on October 19, 1984, and without a break in service since October 19, 1984,''.

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

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

Subsec. (f). Pub. L. 102–568, §304(a), added subsec. (f).

Subsec. (g). Pub. L. 102–568, §305(a), added subsec. (g).

Subsec. (h). Pub. L. 102–568, §306(a), added subsec. (h).

1991—Pub. L. 102–83 renumbered section 1411 of this title as this section.

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

''(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

''(B) continues on active duty; or''.

1990—Subsec. (a)(1)(A)(ii)(I). Pub. L. 101–510, §562(a)(1), substituted ''for'' for ''or for'' and inserted '', or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy'' after ''hardship''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

EFFECTIVE DATE OF 2006 AMENDMENT

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 2001 AMENDMENTS

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

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

Pub. L. 107–14, §7(c)(4), June 5, 2001, 115 Stat. 33, provided that: ''The amendments made by this subsection [amending this section and sections 3012 and 3015 of this title] shall take effect as if included in the enactment of section 105 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106–419; 114 Stat. 1828).''

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–419, title I, §105(c), Nov. 1, 2000, 114 Stat. 1829, provided that: ''The amendments made by this

section [amending this section and sections 3012 and 3015 of this title] shall take effect on May 1, 2001.''

EFFECTIVE DATE OF 1999 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

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

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

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

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

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

EFFECTIVE DATE OF 1986 AMENDMENT

Section 303(b) of Pub. L. 99–576 provided that: ''The amendments made by subsection (a) [amending this section and section 1412 [now 3012] of this title] shall apply to any reduction in basic pay made under section 1411(b) [now 3011(b)] or 1412(c) [now 3012(c)] of title 38, United States Code, after December 31, 1985.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

TRANSITIONAL PROVISION FOR INDIVIDUALS DISCHARGED BETWEEN ENACTMENT AND EFFECTIVE DATE

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

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

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

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

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

NOTIFICATION REQUIREMENT

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

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

(a) Except as provided in subsection (d) of this section, each individual—

(1) who—

(A) after June 30, 1985, first becomes a member of the Armed Forces or first enters on active duty as a member of the Armed Forces and—

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

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

(B) as of December 31, 1989, is eligible for educational assistance under chapter 34 of this title and was on active duty at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—

(i) after June 30, 1985, serves at least two years of continuous active duty in the Armed Forces, subject to subsection (b) of this section, characterized by the Secretary concerned as honorable service; and

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

(C) as of December 31, 1989, was eligible for educational assistance under chapter 34 of this title and—

(i) was not on active duty on October 19, 1984;

(ii) reenlists or reenters on a period of active duty after October 19, 1984; and

(iii) on or after July 1, 1985—

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

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

(2) who completes the requirements of a secondary school diploma (or equivalency certificate), or successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree, before applying for benefits under this section; and

(3) who, after completion of the service described in clause (1) of this subsection—

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

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

is entitled to basic educational assistance under this chapter.

(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, (v) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, (vi) for a physical or mental condition that was not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, or (vii) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

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

(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability, by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10), for a medical condition which preexisted such service on active duty and which the Secretary determines is not service connected, or for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service;

(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Secretary determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, (VI) for a physical or mental condition not characterized as a disability, as described in section 3011(a)(1)(A)(ii)(I) of this title, or (VII) by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10); or

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

(2) After an individual begins service in the Selected Reserve within one year after completion of the service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve shall not be considered to be broken—

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

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

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

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

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

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

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

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

(A) before October 1, 1996; or

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

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

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

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

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

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

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

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

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

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2555, § 1412; amended Pub. L. 99–145, title VI, § 674(2), Nov. 8, 1985, 99 Stat. 665; Pub. L. 99–576, title III, §§ 303(a)(2), 307(a)(2), 321(2), Oct. 28, 1986, 100 Stat. 3269, 3277; Pub. L. 100–48, § 3(b), June 1, 1987, 101 Stat. 331; Pub. L. 100–689, title I, §§ 102(b)(1), 103(b)(1), 104(b), 105, 111(a)(2)(B), Nov. 18, 1988, 102 Stat. 4162, 4165, 4166, 4171; Pub. L. 101–237, title IV, §§ 409, 423(a)(1), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2084, 2090, 2092; Pub. L. 101–510, div. A, title V, § 562(a)(3), Nov. 5, 1990, 104 Stat. 1574; renumbered § 3012 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–484, div. D, title XLIV, § 4419(b), Oct. 23, 1992, 106 Stat. 2718; Pub. L. 102–568, title III, §§ 302(a)(2), 303(a)(2), Oct. 29, 1992, 106 Stat. 4326, 4327; Pub. L. 103–160, div. A, title V, § 561(m), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–446, title XII, § 1201(f)(2), Nov. 2, 1994, 108 Stat. 4687; Pub. L. 104–106, div. A, title XV, § 1501(e)(2)(B), Feb. 10, 1996, 110 Stat. 501; Pub. L. 104–201, div. A, title V, § 556(b), Sept. 23,

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

PRIOR PROVISIONS

Prior section 3012 was renumbered section 5112 of this title.

AMENDMENTS

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

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

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

Pub. L. 110–317, § 6(c)(2)(B)(ii)(I), substituted ", (VI)" for ", or (VI)".

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

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

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

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

Subsec. (d)(3)(B). Pub. L. 107–103, § 106(a), substituted "$3,400" for "$2,000".

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

Subsec. (f)(3). Pub. L. 107–14, § 7(c)(2)(B), substituted "multiples of $20" for "multiples of $4".

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

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

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

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

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

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

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

1999—Subsec. (g)(1). Pub. L. 106–117 struck out "Federal" before "Government".

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

Subsec. (g). Pub. L. 105–368, § 207(b), added subsec. (g).

1996—Subsec. (b)(1)(B)(iii). Pub. L. 104–106 substituted "section 10143(a) of title 10" for "section 268(b) of title 10".

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

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

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

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

1992—Subsec. (a)(1)(B). Pub. L. 102–568, § 302(a)(2), substituted "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service" for "on October 19, 1984, and without a break in service since October 19, 1984,".

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (b)(2). Pub. L. 101–237, § 423(a)(1)(B), substituted "After an individual begins service in the Selected Reserve within one year after completion of the

service described in clause (A)(i) or (B)(i) of subsection (a)(1) of this section, the continuity of service of such individual as a member of the Selected Reserve'' for ''Continuity of service of a member in the Selected Reserve for purposes of such clauses''.

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

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

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

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

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 2001 AMENDMENTS

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 203(a) of Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

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

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1992 AMENDMENT

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

EFFECTIVE DATE OF 1990 AMENDMENT

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

EFFECTIVE DATE OF 1988 AMENDMENT

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

EFFECTIVE DATE OF 1986 AMENDMENT

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

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

NOTIFICATION REQUIREMENT

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

§ 3013. Duration of basic educational assistance

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

ment to basic educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the matter provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary.

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

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

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

AMENDMENTS

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

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

EFFECTIVE DATE

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

§ 3015. Amount of basic educational assistance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) In the case of an individual who after October 7, 1997, receives an enlistment bonus under section 308a or 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 en-

[1] See References in Text note below.

actment of this paragraph) that limits the authority to make such payments.

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

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

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

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

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

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

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

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

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

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

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

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

References in Text

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

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

Amendments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(1) the aggregate amount of such allowances paid the individual under such section 3014(b); divided by

''(2) 36.''

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

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

Pub. L. 106–419, § 101(a)(1), substituted ''$650'' for ''$528''.

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

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

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

Pub. L. 106–419, § 101(a)(2), substituted ''$528'' for ''$429''.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (a)(1). Pub. L. 102–568, § 301(a)(1), substituted ''$400'' for ''$300''.

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

Subsec. (b)(1). Pub. L. 102–568, § 301(a)(2), substituted ''$325'' for ''$250''.

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

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (f). Pub. L. 102–25, § 337(a)(3), added subsec. (f).

1990—Subsec. (e). Pub. L. 101–510 added subsec. (e).

1989—Subsecs. (a)(2), (b)(2). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

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

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

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

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

EFFECTIVE DATE OF 2008 AMENDMENT

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

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

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

EFFECTIVE DATE OF 2001 AMENDMENT

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

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

EFFECTIVE DATE OF 2000 AMENDMENT

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

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

EFFECTIVE DATE OF 1998 AMENDMENTS

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

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

EFFECTIVE DATE OF 1993 AMENDMENT

Section 12009(d)(3) of Pub. L. 103–66 provided that: ''The amendments made by paragraphs (1) and (2) [amending this section] shall apply as if included in the enactment of Public Law 102–568.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 301(a) and (c) of Pub. L. 102–568 effective Apr. 1, 1993, but not to be construed to

change account from which payment is made for certain portion of payments made under this chapter or chapter 106 of Title 10, Armed Services, see section 301(e) of Pub. L. 102–568, set out as a note under section 16131 of Title 10.

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

ADJUSTMENT IN RATES OF EDUCATIONAL ASSISTANCE

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

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

§ 3016. Inservice enrollment in a program of education

(a) A member of the Armed Forces who—

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

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

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

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

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

(b) A member of the Armed Forces who—

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

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

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

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

(c) A member of the Armed Forces who—

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

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

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

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

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

§ 3017. Death benefit

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

(A) who—

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

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

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

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

(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 individ-

[1] See References in Text note below.

ual's Servicemembers' Group Life Insurance policy.

(ii) The surviving spouse of the individual.

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

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

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

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

(1) the total of—

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

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

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

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

(2) the total of—

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

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

(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 3035(b)(1), it shall be considered to be an entitlement earned under this 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; Pub. L. 109–233, title V, § 503(4), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (b)(1)(D). Pub. L. 109–233 substituted ''3011(e)'' for ''3011(c)''.

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

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

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

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

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

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

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

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3035(b)(1)'' for ''1435(b)(1)''.

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

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

EFFECTIVE DATE OF 2001 AMENDMENT

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

EFFECTIVE DATE

Section 101(c) of Pub. L. 100–689 provided that: ''The amendments made by this section [enacting this section] shall take effect as of July 1, 1985.''

§ 3018. Opportunity for certain active-duty personnel to withdraw election not to enroll

(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the ''open period''), an individual who—

(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary of Defense shall prescribe, to withdraw an election made under section 3011(c)(1) or 3012(d)(1) of this title not to receive educational assistance under this chapter.

(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 3011(c)(1) or 3012(d)(1) of this title and who—

(1) while serving on active duty during the open period, makes a withdrawal of such an election;

(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

(3)(A) serves the obligated period of service described in clause (2) of this subsection;

(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Secretary determines is not service connected, (iii) hardship, or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Sec-

retary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy); or

(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

(4) before applying for benefits under this section—

(A) completes the requirements of a secondary school diploma (or equivalency certificate); or

(B) successfully completes (or otherwise receives academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and

(5) upon completion of such obligated period of service—

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 3011(c)(1) or 3012(d)(1) of this title shall be reduced by—

(1) $1,200; or

(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200, an amount less than $1,200.

(d) A withdrawal under subsection (b)(1) of this section is irrevocable.

(Added Pub. L. 100–689, title I, § 103(a), Nov. 18, 1988, 102 Stat. 4164, § 1418; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), (4)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102–16, § 10(a)(2), Mar. 22, 1991, 105 Stat. 55; renumbered § 3018 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–86, title V, § 506(b)(2), Aug. 14, 1991, 105 Stat. 426; Pub. L. 102–568, title III, § 309(a), Oct. 29, 1992, 106 Stat. 4329; Pub. L. 105–368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106–419, title I, § 102(c), Nov. 1, 2000, 114 Stat. 1825; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (b)(3)(B)(iv). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

2000—Subsec. (b)(4). Pub. L. 106–419 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''before completing such obligated period of service (i) has completed the requirements of a secondary school diploma (or an equivalency certificate), or (ii) has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree; and''.

1998—Subsec. (b)(4)(ii). Pub. L. 105–368 substituted ''successfully completed (or otherwise received academic credit for)'' for ''successfully completed''.

1992—Subsec. (b)(3)(B)(iv). Pub. L. 102–568 added cl. (iv).

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

Subsec. (a). Pub. L. 102–86 made technical amendment to directory language of Pub. L. 101–237, § 423(b)(4)(A). See 1989 Amendment note below.

Pub. L. 102–83, § 5(c)(1), substituted ''3011(c)(1) or 3012(d)(1)'' for ''1411(c)(1) or 1412(d)(1)'' in concluding provisions.

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''3011(c)(1) or 3012(d)(1)'' for ''1411(c)(1) or 1412(d)(1)'' in introductory provisions.

Subsec. (b)(4). Pub. L. 102–16 substituted ''service (i)'' for ''service,'' and added cl. (ii).

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''3011(c)(1) or 3012(d)(1)'' for ''1411(c)(1) or 1412(d)(1)'' in introductory provisions.

1989—Subsec. (a). Pub. L. 101–237, § 423(b)(4)(A), as amended by Pub. L. 102–86, inserted ''of Defense'' after ''Secretary'' in concluding provisions.

Subsec. (b)(3)(B). Pub. L. 101–237, § 423(b)(1)(A), substituted ''Secretary'' for ''Administrator''.

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 309(b) of Pub. L. 102–568 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect as if enacted on December 1, 1988.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 506(b)(2) of Pub. L. 102–86 provided that the amendment made by that section is effective as of Dec. 18, 1989.

§ 3018A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service

(a) Notwithstanding any other provision of law, an individual who—

(1) after February 2, 1991, is involuntarily separated (as such term is defined in section 1141 of title 10) with an honorable discharge;

(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program

of education leading to a standard college degree;

(3) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Homeland Security shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3), before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

(5) before such separation elects to receive assistance under this section pursuant to procedures referred to in paragraph (3),

is entitled to basic educational assistance under this chapter.

(b) The basic pay of an individual described in subsection (a) shall be reduced by $1,200.

(c) A withdrawal referred to in subsection (a)(3) is irrevocable.

(d)(1) Except as provided in paragraph (3), an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) shall be disenrolled from such chapter 32 program as of the date of such election.

(2) For each individual who is disenrolled from such program, the Secretary shall refund—

(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) shall remain in such Account to make payments of benefits to such individual under section 3015(f) of this title.

(Added Pub. L. 101–510, div. A, title V, § 561(a)(1), Nov. 5, 1990, 104 Stat. 1571, § 1418A; amended Pub. L. 102–25, title VII, § 705(c)(1), Apr. 6, 1991, 105 Stat. 120; renumbered § 3018A and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103–446, title XII, § 1201(d)(4), (i)(4), Nov. 2, 1994, 108 Stat. 4684, 4688; Pub. L. 105–368, title II, § 203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 107–296, title XVII, § 1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109–233, title V, § 503(5), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (a)(4), (5). Pub. L. 109–233, § 503(5)(B), struck out ''of this subsection'' after ''paragraph (3)''.

Subsecs. (b), (c). Pub. L. 109–233, § 503(5)(A), struck out ''of this section'' after ''subsection (a)'' in subsec. (b) and after ''subsection (a)(3)'' in subsec. (c).

Subsec. (d)(1). Pub. L. 109–233, § 503(5)(B), struck out ''of this subsection'' after ''paragraph (3)'' and after ''subsection (a)(4)''.

Subsec. (d)(3). Pub. L. 109–233, § 503(5)(B), (C), struck out ''of this subsection'' after ''paragraph (1)'' and substituted ''of this title'' for ''of this chapter''.

2002—Subsec. (a)(3). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

1998—Subsec. (a)(2). Pub. L. 105–368 substituted ''successfully completed (or otherwise received academic credit for)'' for ''successfully completed''.

1994—Subsec. (a)(1). Pub. L. 103–446, § 1201(i)(4), substituted ''after February 2, 1991,'' for ''after December 31, 1990, or the end of the 90-day period beginning on the date of the enactment of this section, whichever is later,''.

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

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

Subsec. (a)(1). Pub. L. 102–25 substituted ''section 1141 of title 10'' for ''section 1142 of title 10''.

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

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

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–368 effective Oct. 1, 1998, see section 203(b) of Pub. L. 105–368, set out as a note under section 3011 of this title.

§ 3018B. Opportunity for certain persons to enroll

(a) Notwithstanding any other provision of law—

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

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

(B) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed (or otherwise received academic credit for) the equivalent of 12 semester hours in a program of education leading to a standard college degree;

(C) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such 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. Authority to transfer unused education benefits to family members for career service members

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

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

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

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

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

(1) To the individual's spouse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) either—

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

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

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

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

(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent

under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(*l*) 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; Pub. L. 110–252, title V, § 5006(a), June 30, 2008, 122 Stat. 2380.)

PRIOR PROVISIONS

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

AMENDMENTS

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

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

Subsec. (d). Pub. L. 110–252, § 5006(a)(2), added subsec. (d) and struck out former subsec. (d). Prior to amend-

ment, text read as follows: ''The total number of months of entitlement transferred by an individual under this section may not exceed 18 months.''

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

Subsec. (f)(2)(A). Pub. L. 110–252, § 5006(a)(4), inserted ''as long as the individual is serving on active duty or as a member of the Selected Reserve'' after ''so transferred''.

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

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

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

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

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

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

EFFECTIVE DATE OF 2002 AMENDMENTS

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

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

PLAN FOR IMPLEMENTATION

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

SUBCHAPTER III—SUPPLEMENTAL EDUCATIONAL ASSISTANCE

§ 3021. Supplemental educational assistance for additional service

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

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

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

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

(B) continues on active duty without a break in service; or

(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

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

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

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

(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list; or

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

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

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

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

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

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

PRIOR PROVISIONS

Prior section 3021 was renumbered section 5121 of this title.

AMENDMENTS

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

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 edu-

cational 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; Pub. L. 110–252, title V, § 5003(b)(1)(A), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTIONS (a)(1) AND (c)

Pub. L. 110–252, title V, § 5003(b)(1)(A), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, this section is amended as follows:

(1) in subsection (a)(1) by inserting ''33,'' after ''32,''; and

(2) in subsection (c) by striking ''both the program established by this chapter and the program established by chapter 106 of title 10'' and inserting ''two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10''.

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.''

EFFECTIVE DATE OF 2008 AMENDMENT

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

§ 3034. Program administration

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

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

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

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

(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term not later than the last day of the month immediately following the month in which certification is received from the educational institution that such individual has enrolled in and is pursuing a program at such institution. Such lump-sum payment shall be computed at the rate determined under section 3032(b) of this title.

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

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

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

(3) the flight school courses 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 as-

sistance 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 appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

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

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

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

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

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

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

AMENDMENTS

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

Subsec. (b)(2). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

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

Subsecs. (c) to (e). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' wherever appearing.

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

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

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

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

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

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

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

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

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

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

1989—Subsecs. (a), (b)(1), (d), (e)(1), (2)(A). Pub. L. 101–237 substituted ''Secretary'' and ''Department of Veterans Affairs'' for ''Administrator'' and ''Veterans' Administration'', respectively, wherever appearing.

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

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

EFFECTIVE DATE OF 2002 AMENDMENTS

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

Pub. L. 107–314, div. A, title VI, § 643(c)(2), Dec. 2, 2002, 116 Stat. 2578, provided that: ''The amendments made by subsection (b) [amending this section] shall take effect as if made by section 654 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1153).''

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

§ 3036. Reporting requirement

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

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

(1) information indicating (A) the extent to which the benefit levels provided under this chapter are adequate to achieve the purposes of inducing individuals to enter and remain in the Armed Forces and of providing an adequate level of financial assistance to help meet the cost of pursuing a program of education, (B) whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for

educational assistance under this chapter to individuals who have not yet entered active-duty service, and (C) describing the efforts under sections 3011(i) and 3012(g) of this title to inform members of the Armed Forces of the minimum service requirements for entitlement to educational assistance benefits under this chapter and the results from such efforts; and

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

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

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

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

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

(Added Pub. L. 98–525, title VII, § 702(a)(1), Oct. 19, 1984, 98 Stat. 2563, § 1436; amended Pub. L. 101–237, title IV, § 423(b)(1)(A), (4)(D), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3036, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105–368, title II, § 207(c), Nov. 11, 1998, 112 Stat. 3328; Pub. L. 106–419, title IV, § 403(c)(4), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 109–444, § 4(b), Dec. 21, 2006, 120 Stat. 3308; Pub. L. 109–461, title III, § 305(b), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3428, 3468.)

AMENDMENTS

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

Pub. L. 109–461, § 305(b), substituted ''January 1, 2011'' for ''January 1, 2005''.

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

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

Sec.
3100. Purposes.
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3122. Longitudinal study of vocational rehabilitation programs.

AMENDMENTS

2008—Pub. L. 110–389, title III, § 334(b), Oct. 10, 2008, 122 Stat. 4173, added item 3122.

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, applied 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 sec-

tion 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 eligibility 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 "handling 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.

BLIND REHABILITATION OUTPATIENT SPECIALISTS

Pub. L. 109–461, title II, § 207, Dec. 22, 2006, 120 Stat. 3412, provided that:

"(a) FINDINGS.—Congress makes the following findings:

"(1) There are approximately 135,000 blind veterans throughout the United States, including approximately 35,000 who are enrolled with the Department of Veterans Affairs. An aging veteran population and injuries incurred in Operation Iraqi Freedom and Operation Enduring Freedom are increasing the number of blind veterans.

"(2) Since 1996, when the Department of Veterans Affairs hired its first 14 blind rehabilitation outpatient specialists (referred to in this section as 'Specialists'), Specialists have been a critical part of the continuum of care for blind and visually impaired veterans.

"(3) The Department of Veterans Affairs operates 10 residential blind rehabilitation centers that are considered among the best in the world. These centers have had long waiting lists, with as many as 1,500 blind veterans waiting for openings in 2004.

"(4) Specialists provide—

"(A) critically needed services to veterans who are unable to attend residential centers or are waiting to enter a residential center program;

"(B) a range of services for blind veterans, including training with living skills, mobility, and adaptation of manual skills; and

"(C) pre-admission screening and follow-up care for blind rehabilitation centers.

"(5) There are not enough Specialist positions to meet the increased numbers and needs of blind veterans.

"(b) ESTABLISHMENT OF ADDITIONAL SPECIALIST POSITIONS.—Not later than 30 months after the date of the enactment of this Act [Dec. 22, 2006], the Secretary of Veterans Affairs shall establish an additional Specialist position at not fewer than 35 additional facilities of the Department of Veterans Affairs.

"(c) SELECTION OF FACILITIES.—In identifying the most appropriate facilities to receive a Specialist position under this section, the Secretary shall—

"(1) give priority to facilities with large numbers of enrolled legally blind veterans;

"(2) ensure that each facility does not have such a position; and

"(3) ensure that each facility is in need of the services of a Specialist.

''(d) COORDINATION.—The Secretary shall coordinate the provision of blind rehabilitation services for veterans with services for the care of the visually impaired offered by State and local agencies, especially to the extent to which such State and local agencies can provide necessary services to blind veterans in settings located closer to the residences of such veterans at similar quality and cost to the veteran.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Department of Veterans Affairs to carry out this section $3,500,000 for each of fiscal years 2007 through 2012.''

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)(1) Except as provided in paragraph (2), 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.

(2)(A) The period of a program of independent living services and assistance for a veteran under this chapter may exceed twenty-four months as follows:

(i) If the Secretary determines that a longer period is necessary and likely to result in a substantial increase in the veteran's level of independence in daily living.

(ii) If the veteran served on active duty during the Post-9/11 Global Operations period and has a severe disability (as determined by the Secretary for purposes of this clause) incurred or aggravated in such service.

(B) In this paragraph, the term ''Post-9/11 Global Operations period'' means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(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; Pub. L. 110–389, title III, § 331, Oct. 10, 2008, 122 Stat. 4170.)

PRIOR PROVISIONS

Prior section 3105 was renumbered section 5305 of this title.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110–389 substituted ''(1) Except as provided in paragraph (2),'' for ''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,'' and added par. (2).

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 enti-

tled 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, local, or other penal institution or correctional facility 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; Pub. L. 109–461, title X, §1002(b), Dec. 22, 2006, 120 Stat. 3465.)

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

2006—Subsec. (g)(1). Pub. L. 109–461 substituted ''local, or other penal institution or correctional facility'' for ''or local penal institution''.

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 subparagraphs (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 Af-

fairs'' 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 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)).

(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; Pub. L. 109–233, title V, § 503(6), June 15, 2006, 120 Stat. 416.)

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.

PRIOR PROVISIONS

Prior section 3117 was renumbered section 5317 of this title.

AMENDMENTS

2006—Subsec. (b)(1). Pub. L. 109–233 substituted ''section 4(b)(1)'' for ''section 8'' and ''633(b)(1)'' for ''633(b)''.

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 ap-

propriate 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 2600[1] veterans in each fiscal year, and the first priority in the provision of such programs

[1] So in original. Probably should be ''2,600''.

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; Pub. L. 110–389, title III, § 332, Oct. 10, 2008, 122 Stat. 4170.)

AMENDMENTS

2008—Subsec. (e). Pub. L. 110–389, which directed amendment of subsec. (e) by substituting ''2600 veterans'' for ''2500 veterans'', was executed by making the substitution for ''2,500 veterans'' to reflect the probable intent of Congress.

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 sub-

section (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.

§ 3122. Longitudinal study of vocational rehabilitation programs

(a) STUDY REQUIRED.—(1) Subject to the availability of appropriated funds, the Secretary shall conduct a longitudinal study of a statistically valid sample of each of the groups of individuals described in paragraph (2). The Secretary shall study each such group over a period of at least 20 years.

(2) The groups of individuals described in this paragraph are the following:

(A) Individuals who begin participating in a vocational rehabilitation program under this chapter during fiscal year 2010.

(B) Individuals who begin participating in such a program during fiscal year 2012.

(C) Individuals who begin participating in such a program during fiscal year 2014.

(b) ANNUAL REPORTS.—By not later than July 1 of each year covered by the study required under subsection (a), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study during the preceding year.

(c) CONTENTS OF REPORT.—The Secretary shall include in the report required under subsection (b) any data the Secretary determines is necessary to determine the long-term outcomes of the individuals participating in the vocational rehabilitation programs under this chapter. The Secretary may add data elements from time to time as necessary. In addition, each such report shall contain the following information:

(1) The number of individuals participating in vocational rehabilitation programs under this chapter who suspended participation in such a program during the year covered by the report.

(2) The average number of months such individuals served on active duty.

(3) The distribution of disability ratings of such individuals.

(4) The types of other benefits administered by the Secretary received by such individuals.

(5) The types of social security benefits received by such individuals.

(6) Any unemployment benefits received by such individuals.

(7) The average number of months such individuals were employed during the year covered by the report.

(8) The average annual starting and ending salaries of such individuals who were employed during the year covered by the report.

(9) The number of such individuals enrolled in an institution of higher learning, as that term is defined in section 3452(f) of this title.

(10) The average number of academic credit hours, degrees, and certificates obtained by such individuals during the year covered by the report.

(11) The average number of visits such individuals made to Department medical facilities during the year covered by the report.

(12) The average number of visits such individuals made to non-Department medical facilities during the year covered by the report.

(13) The average annual income of such individuals.

(14) The average total household income of such individuals for the year covered by the report.

(15) The percentage of such individuals who own their principal residences.

(16) The average number of dependents of each such veteran.

(Added Pub. L. 110–389, title III, § 334(a), Oct. 10, 2008, 122 Stat. 4172.)

CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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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, Navy 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''—

(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.

[1] See References in Text note below.

(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; Pub. L. 109–163, div. A, title V, § 515(e)(3), Jan. 6, 2006, 119 Stat. 3236.)

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

2006—Par. (1)(C)(iii). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

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, local, or other penal institution or correctional facility 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; Pub. L. 109–461, title X, § 1002(c), Dec. 22, 2006, 120 Stat. 3465.)

AMENDMENTS

2006—Subsec. (d)(1). Pub. L. 109–461 substituted ''local, or other penal institution or correctional facility'' for ''or local penal institution''.

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 li-

censing 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 entitle-

ment 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 33—POST–9/11 EDUCATIONAL ASSISTANCE

SUBCHAPTER I—DEFINITIONS

Sec.
3301. Definitions.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement.
3312. Educational assistance: duration.
3313. Educational assistance: amount; payment.
3314. Tutorial assistance.
3315. Licensure and certification tests.
3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service.
3317. Public-private contributions for additional educational assistance.
3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education.
3319. Authority to transfer unused education benefits to family members.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

3321. Time limitation for use of and eligibility for entitlement.
3322. Bar to duplication of educational assistance benefits.
3323. Administration.
3324. Allocation of administration and costs.

SUBCHAPTER I—DEFINITIONS

§ 3301. Definitions

In this chapter:

(1) The term ''active duty'' has the meanings as follows (subject to the limitations specified in sections 3002(6) and 3311(b)):

(A) In the case of members of the regular components of the Armed Forces, the meaning given such term in section 101(21)(A).

(B) In the case of members of the reserve components of the Armed Forces, service on active duty under a call or order to active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10.

(2) The term ''entry level and skill training'' means the following:

(A) In the case of members of the Army, Basic Combat Training and Advanced Individual Training.

(B) In the case of members of the Navy, Recruit Training (or Boot Camp) and Skill Training (or so-called ''A'' School).

(C) In the case of members of the Air Force, Basic Military Training and Technical Training.

(D) In the case of members of the Marine Corps, Recruit Training and Marine Corps Training (or School of Infantry Training).

(E) In the case of members of the Coast Guard, Basic Training.

(3) The term ''program of education'' has the meaning given such term in section 3002, except to the extent otherwise provided in section 3313.

(4) The term ''Secretary of Defense'' means the Secretary of Defense, except that the term means the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2359.)

EFFECTIVE DATE

Chapter effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110–252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

FINDINGS

Pub. L. 110–252, title V, § 5002, June 30, 2008, 122 Stat. 2357, provided that: ''Congress makes the following findings:

''(1) On September 11, 2001, terrorists attacked the United States, and the brave members of the Armed Forces of the United States were called to the defense of the Nation.

''(2) Service on active duty in the Armed Forces has been especially arduous for the members of the Armed Forces since September 11, 2001.

''(3) The United States has a proud history of offering educational assistance to millions of veterans, as demonstrated by the many 'G.I. Bills' enacted since World War II. Educational assistance for veterans helps reduce the costs of war, assist veterans in readjusting to civilian life after wartime service, and boost the United States economy, and has a positive effect on recruitment for the Armed Forces.

''(4) The current educational assistance program for veterans is outmoded and designed for peacetime service in the Armed Forces.

''(5) The people of the United States greatly value military service and recognize the difficult challenges involved in readjusting to civilian life after wartime service in the Armed Forces.

''(6) It is in the national interest for the United States to provide veterans who serve on active duty in the Armed Forces after September 11, 2001, with enhanced educational assistance benefits that are worthy of such service and are commensurate with the educational assistance benefits provided by a grateful Nation to veterans of World War II.''

APPLICABILITY TO INDIVIDUALS UNDER MONTGOMERY GI BILL PROGRAM

Pub. L. 110–252, title V, § 5003(c), June 30, 2008, 122 Stat. 2375, provided that:

''(1) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under chapter 33 of title 38, United States Code (as added by subsection (a)), if such individual—

''(A) as of August 1, 2009—

''(i) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, and has used, but retains unused, entitlement under that chapter;

''(ii) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, and has used, but retains unused, entitlement under the applicable chapter;

''(iii) is entitled to basic educational assistance under chapter 30 of title 38, United States Code, but has not used any entitlement under that chapter;

''(iv) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, but has not used any entitlement under such chapter;

''(v) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of title 38, United States Code, and is making contributions toward such assistance under section 3011(b) or 3012(c) of such title; or

''(vi) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of title 38, United States Code, by reason of an election under section 3011(c)(1) or 3012(d)(1) of such title; and

''(B) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under chapter 33 of title 38, United States Code (as so added).

''(2) CESSATION OF CONTRIBUTIONS TOWARD GI [SIC] BILL.—Effective as of the first month beginning on or after the date of an election under paragraph (1) of an individual described by subparagraph (A)(v) of that paragraph, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of title 38, United States Code, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

''(3) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

''(A) ELECTION TO REVOKE.—If, on the date an individual described in subparagraph (A)(i) or (A)(iii) of paragraph (1) makes an election under that paragraph, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of title 38, United States Code, is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

''(B) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this paragraph shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of this subsection.

''(C) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in subparagraph (A) that is not revoked by an individual in accordance with that subparagraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of title 38, United States Code.

''(4) POST-9/11 EDUCATIONAL ASSISTANCE.—

''(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in paragraph (5), an individual making an election under paragraph (1) shall be entitled to educational assistance under chapter 33 of title 38, United States Code (as so added), in accordance with the provisions of such chapter, instead of basic educational assistance under chapter 30 of title 38, United States Code, or educational assistance under chapter 107, 1606, or 1607 of title 10, United States Code, as applicable.

''(B) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under paragraph (1) who is described by subparagraph (A)(i) of that paragraph, the number of months of entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), shall be the number of months equal to—

''(i) the number of months of unused entitlement of the individual under chapter 30 of title 38, United States Code, as of the date of the election, plus

''(ii) the number of months, if any, of entitlement revoked by the individual under paragraph (3)(A).

''(5) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER 9/11 ASSISTANCE PROGRAM.—

''(A) IN GENERAL.—In the event educational assistance to which an individual making an election under paragraph (1) would be entitled under chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable, is not authorized to be available to the individual under the provisions of chapter 33 of title 38, United States Code (as so added), the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

''(B) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under subparagraph (A) shall be chargeable against the entitlement of the individual to educational assistance under chapter 33 of title 38, United States Code (as so added), at the rate of one month of entitlement under such chapter 33 for each month of entitlement utilized by the individual under subparagraph (A) (as determined as if such entitlement were utilized under the provisions of chapter 30 of title 38, United States Code, or chapter 107, 1606, or 1607 of title 10, United States Code, as applicable).

''(6) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI [SIC] BILL.—

''(A) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under paragraph (1) who is described by clause (i), (iii), or (v) of subparagraph (A) of that paragraph, the amount of educational assistance payable to the individual under chapter 33 of title 38, United States Code (as so added), as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of such title, or under paragraphs (2) through (7) of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

''(i) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of title 38, United States Code, as of the date of the election, multiplied by

''(ii) the fraction—

''(I) the numerator of which is—

''(aa) the number of months of entitlement to basic educational assistance under chapter 30 of title 38, United States Code, remaining to the individual at the time of the election; plus

''(bb) the number of months, if any, of entitlement under such chapter 30 revoked by the individual under paragraph (3)(A); and

''(II) the denominator of which is 36 months.

''(B) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by subparagraph (A) who is described by paragraph (1)(A)(v), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of subparagraph (A)(ii)(I)(aa) shall be 36 months.

''(C) TIMING OF PAYMENT.—The amount payable with respect to an individual under subparagraph (A) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of title 38, United States Code (as so added), or under paragraphs (2) through (7) of that section (as applicable), before the exhaustion of the individual's entitlement to educational assistance under chapter 33 of such title (as so added).

''(7) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALITY AND ADDITIONAL SERVICE.—An individual making an election under paragraph (1)(A) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of title 38, United States Code, or section 16131(i) of title 10, United States Code, or supplemental educational assistance under subchapter III of chapter 30 of title 38, United States Code, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under chapter

33 of title 38, United States Code (as so added), in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

''(8) IRREVOCABILITY OF ELECTIONS.—An election under paragraph (1) or (3)(A) is irrevocable.''

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) ENTITLEMENT.—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual as follows:

(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

(3) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 36 months; or

(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

(4) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 30 months; or

(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

(5) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 24 months; or

(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

(6) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 18 months; or

(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

(7) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 12 months; or

(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

(8) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 6 months; or

(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

(1) A discharge from active duty in the Armed Forces with an honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the

Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces for—

(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or

(C) 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 concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10.

(3) A period of service that is 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.

(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2359.)

§ 3312. Educational assistance: duration

(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or 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 an individual 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

(B) 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), the individual's course pursuit.

(3) PERIOD FOR WHICH PAYMENT NOT CHARGED.—The period for which, by reason of this subsection, educational assistance 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 from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2362.)

§ 3313. Educational assistance: amount; payment

(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is offered by an institution of higher learning (as that term is defined in section 3452(f)) and is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

(c) AMOUNT OF EDUCATIONAL ASSISTANCE.—The amounts payable under this subsection for pursuit of an approved program of education are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(1) or 3311(b)(2), amounts as follows:

(A) An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher education offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher education in such State offering such programs of education.

(B) A monthly stipend in an amount as follows:

(i) For each month the individual pursues the program of education (other than, in the case of assistance under this section only, a program of education offered through distance learning), a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E–5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled.

(ii) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(I) $1,000, multiplied by

(II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3), amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4), amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5), amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(5) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(6), amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7), amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(d) FREQUENCY OF PAYMENT.—

(1) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(2) MONTHLY PAYMENTS.—Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

(3) REGULATIONS.—The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance this[1] chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

(e) PROGRAMS OF EDUCATION PURSUED ON ACTIVE DUTY.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education while on active duty.

(2) AMOUNT OF ASSISTANCE.—The amount of educational assistance payable under this chapter to an individual pursuing a program of education while on active duty is the lesser of—

(A) the established charges which similarly circumstanced nonveterans enrolled in

[1] So in original. Probably should be preceded by ''under''.

the program of education involved would be required to pay; or

(B) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1)[2]

(3) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amount payable under paragraph (2) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less.

(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education on half-time basis or less is the amounts as follows:

(A) The amount equal to the lesser of—

(i) the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or

(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

(3) QUARTER, TERM, OR SEMESTER PAYMENTS.—Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

(B) the number of course hours for full-time pursuit of such program of education.

(g) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A) shall be paid directly to the educational institution concerned.

(h) ESTABLISHED CHARGES DEFINED.—

(1) IN GENERAL.—In this section, 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.

(2) BASIS OF DETERMINATION.—Established charges shall be determined for purposes of this subsection 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.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2363.)

§ 3314. Tutorial assistance

(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492.

(b) CONDITIONS.—

(1) IN GENERAL.—The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492.

(2) CERTIFICATION.—In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

(A) such benefits are essential to correct a deficiency of the individual in such course; and

(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

(c) AMOUNT.—

(1) IN GENERAL.—The amount of benefits described in subsection (a) that are payable under this section may not exceed $100 per month, for a maximum of 12 months, or until a maximum of $1,200 is utilized.

(2) AS ADDITIONAL ASSISTANCE.—The amount provided an individual under this subsection is

[2] So in original. Probably should be followed by a period.

in addition to the amounts of educational assistance paid the individual under section 3313.

(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance benefits provided the individual under this chapter.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2366.)

§ 3315. Licensure and certification tests

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter shall also be entitled to payment for one licensing or certification test described in section 3452(b).

(b) LIMITATION ON AMOUNT.—The amount payable under subsection (a) for a licensing or certification test may not exceed the lesser of—

(1) $2,000; or

(2) the fee charged for the test.

(c) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under subsection (a) is in addition to any other educational assistance benefits provided the individual under this chapter.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2367.)

§ 3316. Supplemental educational assistance: members with critical skills or specialty; members serving additional service

(a) INCREASED ASSISTANCE FOR MEMBERS WITH CRITICAL SKILLS OR SPECIALTY.—

(1) IN GENERAL.—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 or, in the case of critical units, retain personnel, the Secretary concerned may increase the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c), or under paragraphs (2) through (7) of such section (as applicable).

(2) MAXIMUM AMOUNT OF INCREASE IN ASSISTANCE.—The amount of the increase in educational assistance authorized by paragraph (1) may not exceed the amount equal to the monthly amount of increased basic educational assistance providable under section 3015(d)(1) at the time of the increase under paragraph (1).

(b) SUPPLEMENTAL ASSISTANCE FOR ADDITIONAL SERVICE.—

(1) IN GENERAL.—The Secretary concerned may provide for the payment to an individual entitled to educational assistance under this chapter of supplemental educational assistance for additional service authorized by subchapter III of chapter 30. The amount so payable shall be payable as an increase in the monthly amount of educational assistance otherwise payable to the individual under paragraph (1)(B) of section 3313(c), or under paragraphs (2) through (7) of such section (as applicable).

(2) ELIGIBILITY.—Eligibility for supplement[1] educational assistance under this subsection shall be determined in accordance with the provisions of subchapter III of chapter 30, except that any reference in such provisions to eligibility for basic educational assistance under a provision of subchapter II of chapter 30 shall be treated as a reference to eligibility for educational assistance under the appropriate provision of this chapter.

(3) AMOUNT.—The amount of supplemental educational assistance payable under this subsection shall be the amount equal to the monthly amount of supplemental educational[2] payable under section 3022.

(c) REGULATIONS.—The Secretaries concerned shall administer this section in accordance with such regulations as the Secretary of Defense shall prescribe.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2367.)

§ 3317. Public-private contributions for additional educational assistance

(a) ESTABLISHMENT OF PROGRAM.—In instances where the educational assistance provided pursuant to section 3313(c)(1)(A) does not cover the full cost of established charges (as specified in section 3313), the Secretary shall carry out a program under which colleges and universities can, voluntarily, enter into an agreement with the Secretary to cover a portion of those established charges not otherwise covered under section 3313(c)(1)(A), which contributions shall be matched by equivalent contributions toward such costs by the Secretary. The program shall only apply to covered individuals described in paragraphs (1) and (2) of section 3311(b).

(b) DESIGNATION OF PROGRAM.—The program under this section shall be known as the ''Yellow Ribbon G.I. Education Enhancement Program''.

(c) AGREEMENTS.—The Secretary shall enter into an agreement with each college or university seeking to participate in the program under this section. Each agreement shall specify the following:

(1) The manner (whether by direct grant, scholarship, or otherwise) of the contributions to be made by the college or university concerned.

(2) The maximum amount of the contribution to be made by the college or university concerned with respect to any particular individual in any given academic year.

(3) The maximum number of individuals for whom the college or university concerned will make contributions in any given academic year.

(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

(d) MATCHING CONTRIBUTIONS.—

(1) IN GENERAL.—In instances where the educational assistance provided an individual under section 3313(c)(1)(A) does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs

[1] So in original. Probably should be ''supplemental''.

[2] So in original. Probably should be followed by ''assistance''.

for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

(2) USE OF APPROPRIATED FUNDS.—Amounts available to the Secretary under section 3324(b) for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2368.)

§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of $500.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

(1) who resides in a county (or similar entity utilized by the Bureau of the Census) with less than seven persons per square mile, according to the most recent decennial Census; and

(2) who—

(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

(B) travels by air to physically attend an institution of higher education for pursuit of such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

(1) DD Form 214, Certification of Release or Discharge from Active Duty.

(2) The most recent Federal income tax return.

(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2369.)

§ 3319. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit an individual described in subsection (b) who is entitled to educational assistance under this chapter 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 of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the Armed Forces; or

(2) the years of service as determined in regulations pursuant to section (k).[1]

(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to 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 a individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) DESIGNATION OF TRANSFEREE.—An individual transferring an entitlement to 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) TIME FOR TRANSFER.—Subject to the time limitation for use of entitlement under section 3321 an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

(2) MODIFICATION OR REVOCATION.—

(A) IN GENERAL.—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.

[1] So in original. Probably should be "subsection (j)."

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

(3) PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(g) COMMENCEMENT OF USE.—A dependent to whom entitlement to 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 at least—

(A) six years of service in the armed forces; or

(B) the years of service as determined in regulations pursuant to subsection (j); or

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

(A) the completion by the individual making the transfer of at least—

(i) ten years of service in the armed forces; or

(ii) the years of service as determined in regulations pursuant to subsection (j); 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) USE.—The use of any entitlement to 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) NATURE OF TRANSFERRED ENTITLEMENT.—Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6)—

(A) in the case of entitlement transferred to a spouse under this section, the spouse is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred; or

(B) in the case of entitlement transferred to a child under this section, the child is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

(3) RATE OF PAYMENT.—The monthly rate of educational assistance payable to a dependent to whom entitlement referred to in paragraph (2) is transferred under this section shall be payable—

(A) in the case of a spouse, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer; or

(B) in the case of a child, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer as if the individual were not on active duty.

(4) DEATH OF TRANSFEROR.—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) LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.—A child to whom entitlement is transferred under this section may use the benefit without regard to the 15-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years.

(6) SCOPE OF USE BY TRANSFEREES.—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).

(7) ADDITIONAL ADMINISTRATIVE PROVISIONS.—The administrative provisions of this chapter 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 individual for purposes of such provisions.

(i) OVERPAYMENT.—

(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of 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.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to complete the service agreed to by the individual under subsection (b)(1) 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 educational assistance under paragraph (1).

(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(i) by reason of the death of the individual; or

(ii) for a reason referred to in section 3311(c)(4).

(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

(2) Such regulations shall specify—

(A) the manner of authorizing the transfer of entitlements under this section;

(B) the eligibility criteria in accordance with subsection (b); and

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

(k) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25), 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. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2369.)

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3321. Time limitation for use of and eligibility for entitlement

(a) IN GENERAL.—Except as provided in 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 15-year period beginning on the date of such individual's last discharge or release from active duty.

(b) EXCEPTIONS.—

(1) APPLICABILITY OF SECTION 3031 TO RUNNING OF PERIOD.—Subsections (b), (c), and (d) of section 3031 shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 with respect to the running of the 10-year period described in section 3031(a).

(2) APPLICABILITY OF SECTION 3031 TO TERMINATION.—Section 3031(f) shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 shall be deemed to be a reference to 3312.

(3) DETERMINATION OF LAST DISCHARGE OR RELEASE.—For purposes of subsection (a), 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 is discharged or released as described in section 3311(b)(2).

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2373.)

§ 3322. Bar to duplication of educational assistance benefits

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96–449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2373.)

REFERENCES IN TEXT

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

Section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008, referred to in subsec. (d), is section 5003(c) of Pub. L. 110–252, which is set out as a note under section 3301 of this title.

§ 3323. Administration

(a) IN GENERAL.—

(1) IN GENERAL.—Except as otherwise provided in this chapter, the provisions specified in section 3034(a)(1) shall apply to the provision of educational assistance under this chapter.

(2) SPECIAL RULE.—In applying the provisions referred to in paragraph (1) to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such provisions to the term ''eligible veteran'' shall be deemed to refer to an individual entitled to educational assistance under this chapter.

(3) RULE FOR APPLYING SECTION 3474.—In applying section 3474 to an individual entitled to educational assistance under this chapter for purposes of this section, the reference in such section 3474 to the term ''educational assistance allowance'' shall be deemed to refer to educational assistance payable under section 3313.

(4) RULE FOR APPLYING SECTION 3482.—In applying section 3482(g) to an individual entitled to educational assistance under this chapter for purposes of this section—

(A) the first reference to the term ''educational assistance allowance'' in such section 3482(g) shall be deemed to refer to educational assistance payable under section 3313; and

(B) the first sentence of paragraph (1) of such section 3482(g) shall be applied as if such sentence ended with ''equipment''.

(b) INFORMATION ON BENEFITS.—

(1) TIMING FOR PROVIDING.—The Secretary shall provide the information described in paragraph (2) to each member of the Armed Forces at such times as the Secretary and the Secretary of Defense shall jointly prescribe in regulations.

(2) DESCRIPTION OF INFORMATION.—The information described in this paragraph is information on benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and other important aspects of educational assistance under this chapter, including application forms for such assistance under section 5102.

(3) TO WHOM PROVIDED.—The Secretary of Veterans Affairs shall furnish the information and forms described in paragraph (2), and other educational materials on educational assistance under this chapter, to educational institutions, training establishments, military education personnel, and such other persons and entities as the Secretary considers appropriate.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall prescribe regulations for the administration of this chapter.

(2) UNIFORMITY.—Any regulations prescribed by the Secretary of Defense for purposes of this chapter shall apply uniformly across the Armed Forces.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2374.)

§ 3324. Allocation of administration and costs

(a) ADMINISTRATION.—Except as otherwise provided in this chapter, the Secretary shall administer the provision of educational assistance under this chapter.

(b) COSTS.—Payments for entitlement to educational assistance earned under this chapter shall be made from funds appropriated to, or otherwise made available to, the Department for the payment of readjustment benefits.

(Added Pub. L. 110–252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2375.)

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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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, Navy Reserve, Air Force Reserve, Marine 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; Pub. L. 109–163, div. A, title V, § 515(e)(4), Jan. 6, 2006, 119 Stat. 3236.)

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

2006—Subsec. (a)(3)(C). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

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 veteran 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

(a) ENTITLEMENT.—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.

(b) ENTITLEMENT LIMITATIONS.—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) DURATION OF ENTITLEMENT.—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; Pub. L. 109–233, title V, § 503(8)(A), (B), June 15, 2006, 120 Stat. 416.)

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

2006—Subsecs. (a), (b). Pub. L. 109–233, § 503(8)(A), revised style of headings.

Subsec. (c). Pub. L. 109–233, § 503(8)(B), inserted heading.

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

(a) DELIMITING PERIOD FOR COMPLETION.—(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 delimiting 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.

(b) CORRECTION OF DISCHARGE.—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.

(c) SAVINGS CLAUSE.—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) PRISONERS OF WAR.—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) TERMINATION OF ASSISTANCE.—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; Pub. L. 109–233, title V, § 503(8)(A), (C), June 15, 2006, 120 Stat. 416.)

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

2006—Subsecs. (a) to (c). Pub. L. 109–233, § 503(8)(A), revised style of headings.

Subsecs. (d), (e). Pub. L. 109–233, § 503(8)(C), inserted headings.

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 education 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 vet-

eran 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

(a) GENERAL.—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.

(b) INSTITUTIONAL TRAINING.—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; Pub. L. 109–233, title V, § 503(8)(A), June 15, 2006, 120 Stat. 416.)

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

2006—Pub. L. 109–233 revised style of subsec. headings.

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, local, or other penal institution or correctional facility 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; Pub. L. 109–461, title X, § 1002(d), Dec. 22, 2006, 120 Stat. 3465.)

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

2006—Subsec. (g)(1). Pub. L. 109–461 substituted ''local, or other penal institution or correctional facility'' for ''or local penal institution''.

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 col-

umn 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 educational 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 chapter 63 of this title as carried out under the supervision of a Department employee or, during the period preceding June 30, 2010, 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 June 30, 2010, 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 or 1607 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 June 30, 2010, 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 1606 or 1607 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 a qualifying work-study activity described in subsection (a)(4) 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 1606 or 1607 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.

[1] See References in Text note below.

(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; Pub. L. 109–233, title IV, § 402(e)(1), June 15, 2006, 120 Stat. 411; Pub. L. 109–444, § 2(g), Dec. 21, 2006, 120 Stat. 3305; Pub. L. 109–461, title III, §§ 304, 307, title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3428, 3429, 3468; Pub. L. 110–157, title III, § 302, Dec. 26, 2007, 121 Stat. 1836; Pub. L. 110–252, title V, § 5003(b)(2)(A)(i), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTIONS (b) AND (e)(1)

Pub. L. 110–252, title V, § 5003(b)(2)(A)(i), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsections (b) and (e)(1) of this section are amended by inserting ''33,'' after ''32,''.

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

2007—Subsec. (a)(4)(A), (C), (F). Pub. L. 110–157 substituted ''June 30, 2010'' for ''June 30, 2007''.

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

Subsec. (a)(4)(A). Pub. L. 109–461, § 304, substituted ''June 30, 2007'' for ''December 27, 2006''.

Pub. L. 109–444, which substituted ''June 30, 2007'' for ''December 27, 2006'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Pub. L. 109–233 substituted ''chapter 63'' for ''subchapter II of chapter 77''.

Subsec. (a)(4)(C). Pub. L. 109–461, § 304, substituted ''June 30, 2007'' for ''December 27, 2006''.

Pub. L. 109–444, which substituted ''June 30, 2007'' for ''December 27, 2006'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(4)(E). Pub. L. 109–461, § 307(1), inserted ''or 1607'' after ''chapter 1606''.

Subsec. (a)(4)(F). Pub. L. 109–461, § 304, substituted ''June 30, 2007'' for ''December 27, 2006''.

Pub. L. 109–444, which substituted ''June 30, 2007'' for ''December 27, 2006'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (b). Pub. L. 109–461, § 307(2), substituted ''chapter 1606 or 1607'' for ''chapter 106''.

Subsec. (e)(1). Pub. L. 109–461, § 307(3), substituted ''a qualifying work-study activity described in subsection (a)(4)'' for ''services of the kind described in clauses (A) through (E) of subsection (a)(1) of this section'' and ''chapter 1606 or 1607'' for ''chapter 106''.

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 2008 AMENDMENT

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

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 enrollment 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 mar-

[1] See References in Text note below.

ried 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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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 any of the following:

(A) A child of a person who, as a result of qualifying service—

(i) died of a service-connected disability; or

(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.

(B) The surviving spouse of any person who died of a service-connected disability sustained during a period of qualifying service.

(C) The spouse or child 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.

(D)(i) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability sustained during a period of qualifying service, or (ii) the surviving spouse of a veteran who died while a disability so evaluated was in existence.

(E) The spouse or child of a person who—

(i) at the time of the Secretary's determination under clause (ii), is a member of the Armed Forces who is hospitalized or receiving outpatient medical care, services, or treatment;

(ii) the Secretary determines has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service; and

(iii) is likely to be discharged or released from such service for such disability.

(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.

(12) The term ''qualifying service'' means service in the active military, naval, or air service after the beginning of the Spanish-American War that did not terminate under dishonorable conditions.

(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; Pub. L. 109–444, § 3(a), (b)(1), Dec. 21, 2006, 120 Stat. 3305; Pub. L. 109–461, title III, § 301(a), (b)(1), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3425, 3468.)

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

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

Subsec. (a)(1). Pub. L. 109–461, § 301(a)(1), (8), substituted ''means any of the following:'' for ''means—'' in introductory provisions and struck out concluding provisions, which read as follows: ''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 whether or not a disability arising out of such service is service connected shall be those applicable under chapter 11 of this title.''

Pub. L. 109–444, § 3(a)(1), (8), which substituted ''means any of the following:'' for ''means—'' in introductory provisions and struck out concluding provisions, was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(1)(A). Pub. L. 109–461, § 301(a)(2), (3), substituted ''A child of a person who, as a result of qualifying service'' for ''a child of a person who'' in introductory provisions substituted ''; or'' for a comma in cl. (i) and a period for '', or'' in cl. (ii), and struck out cl. (iii) which read as follows: ''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.''

Pub. L. 109–444, § 3(a)(2), (3), which substituted ''A child of a person who, as a result of qualifying service'' for ''a child of a person who'' in introductory provisions substituted ''; or'' for a comma in cl. (i) and a period for '', or'' in cl. (ii), and struck out cl. (iii), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(1)(B). Pub. L. 109–461, § 301(a)(2), (4), substituted ''The surviving spouse of any person who died

of a service-connected disability sustained during a period of qualifying service.'' for ''the surviving spouse of any person who died of a service-connected disability,''.

Pub. L. 109–444, § 3(a)(2), (4), which substituted ''The surviving spouse of any person who died of a service-connected disability sustained during a period of qualifying service.'' for ''the surviving spouse of any person who died of a service-connected disability,'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(1)(C). Pub. L. 109–461, § 301(a)(2), (5), substituted ''The spouse or child'' for ''the spouse'' and a period at end for '', or''.

Pub. L. 109–444, § 3(a)(2), (5), which substituted ''The spouse or child'' for ''the spouse'' and a period at end for '', or'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(1)(D). Pub. L. 109–461, § 301(a)(2), (6), substituted ''The spouse'' for ''the spouse'', inserted ''sustained during a period of qualifying service'' before comma in cl. (i), and substituted period for comma at end of cl. (ii).

Pub. L. 109–444, § 3(a)(2), (6), which substituted ''The spouse'' for ''the spouse'', inserted ''sustained during a period of qualifying service'' before comma in cl. (i), and substituted period for comma at end of cl. (ii), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(1)(E). Pub. L. 109–461, § 301(a)(7), added subpar. (E).

Pub. L. 109–444, § 3(a)(7), which added subpar. (E) identical to that added by Pub. L. 109–461, § 301(a)(7), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(12). Pub. L. 109–461, § 301(b)(1), added par. (12).

Pub. L. 109–444, § 3(b)(1), which added par. (12) identical to that added by Pub. L. 109–461, § 301(b)(1), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

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 2006 AMENDMENT

Pub. L. 109–461, title III, § 301(d), Dec. 22, 2006, 120 Stat. 3427, provided that: ''The amendments made by this section [amending this section and sections 3511, 3512, 3540, 3563, 3686, and 5113 of this title] shall apply with respect to a payment of educational assistance for a course of education pursued after the date of the enactment of this Act [Dec. 22, 2006].''

Pub. L. 109–444, § 3(d), Dec. 21, 2006, 120 Stat. 3307, which provided that amendments made by section 3 of Pub. L. 109–444 would apply with respect to a payment of educational assistance for a course of education pursued after Dec. 21, 2006, was repealed by Pub. L. 109–461, title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3468, set out as a Coordination of Provisions With Pub. L. 109–444 note under section 101 of this title.

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, whether made eligible by one or more of the provisions of section 3501(a)(1) of this title, shall be entitled to educational assistance under this chapter for an aggregate period not in excess of 45 months (or to the equivalent thereof in part-time training).

(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 or of being involuntarily ordered to full-time National Guard duty under section 502(f) of title 32; 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 section 3501(a)(1)(C) of this title is no longer listed in one of the categories specified therein,

(3) the spouse, as an eligible person under subparagraph (D) or (E) of section 3501(a)(1) of this title, is divorced, without fault on such person's part, from the person upon whose disability such person's eligibility is based, or

(4) the parent or spouse from whom such eligibility is derived based upon subparagraph (E) of section 3501(a)(1) of this title no longer meets a requirement under clause (i), (ii), or (iii) of that subparagraph,

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.

(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; Pub. L. 109–233, title V, § 503(7), June 15, 2006, 120 Stat. 416; Pub. L. 109–444, § 3(b)(2), Dec. 21, 2006, 120 Stat. 3306; Pub. L. 109–461, title III, §§ 301(b)(2), 302(a), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3425, 3428, 3468.)

AMENDMENTS

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

Subsec. (a)(1). Pub. L. 109–461, § 301(b)(2)(A), substituted ''Each eligible person, whether made eligible by one or more of the provisions of section 3501(a)(1) of this title,'' for ''Each eligible person'' and ''an aggregate period'' for ''a period'' in first sentence and struck out second sentence, which read as follows: ''In no event may the aggregate educational assistance afforded to a spouse made eligible under both sections 3501(a)(1)(D)(i) and 3501(a)(1)(D)(ii) of this title exceed 45 months.''

Pub. L. 109–444, § 3(b)(2)(A), which substituted ''Each eligible person, whether made eligible by one or more of the provisions of section 3501(a)(1) of this title,'' for ''Each eligible person'' and ''an aggregate period'' for ''a period'' in first sentence and struck out second sentence, was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Pub. L. 109–233 inserted ''sections'' after ''under both''.

Subsec. (a)(2)(B)(i). Pub. L. 109–461, § 302(a), inserted ''or of being involuntarily ordered to full-time National Guard duty under section 502(f) of title 32'' after ''title 10''.

Subsec. (b)(2). Pub. L. 109–461, § 301(b)(2)(B)(i), substituted ''section'' for ''the provisions of section 3501(a)(1)(A)(iii) or'' and struck out ''or'' at end.

Pub. L. 109–444, § 3(b)(2)(B)(i), which substituted ''section'' for ''the provisions of section 3501(a)(1)(A)(iii) or'' and struck out ''or'' at end, was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (b)(3). Pub. L. 109–461, § 301(b)(2)(B)(ii), substituted ''subparagraph (D) or (E) of section 3501(a)(1)'' for ''section 3501(a)(1)(D)'' and inserted ''or'' after comma at end.

Pub. L. 109–444, § 3(b)(2)(B)(ii), which substituted ''subparagraph (D) or (E) of section 3501(a)(1)'' for ''section 3501(a)(1)(D)'' and inserted ''or'' after comma at end, was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (b)(4). Pub. L. 109–461, § 301(b)(2)(B)(iii), added par. (4).

Pub. L. 109–444, § 3(b)(2)(B)(iii), which added par. (4) identical to that added by Pub. L. 109–461, § 301(b)(2)(B)(iii), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (c). Pub. L. 109–461, § 301(b)(2)(C), struck out subsec. (c), which read as follows: ''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. 109–444, § 3(b)(2)(C), which struck out subsec. (c), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

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''.

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 2006 AMENDMENT

Amendment by section 301(b)(2) of Pub. L. 109–461 applicable with respect to a payment of educational assistance for a course of education pursued after Dec. 22, 2006, see section 301(d) of Pub. L. 109–461, set out as a note under section 3501 of this title.

Pub. L. 109–461, title III, § 302(b), Dec. 22, 2006, 120 Stat. 3428, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to a payment of educational assistance allowance made after September 11, 2001.''

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 whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) 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 a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title after the person's eighteenth birthday 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;[1]

(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), (C), or (D), a person made eligible by subparagraph (B) or (D) of section 3501(a)(1) of this title or a person made eligible by the disability of a spouse under section 3501(a)(1)(E) 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), 3501(a)(1)(D)(ii), or 3501(a)(1)(E) 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.

(iii) The date on which the Secretary notifies the member of the Armed Forces from

[1] So in original. Probably should be ''this paragraph''.

whom eligibility is derived that the member has a total disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service.

(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.

(D) Notwithstanding subparagraph (A), an eligible person referred to in that subparagraph who is made eligible under section 3501(a)(1)(D)(i) of this title by reason of a service-connected disability that was determined to be a total disability permanent in nature not later than three years after discharge from service may be afforded educational assistance under this chapter during the 20-year period beginning on the date the disability was so determined to be a total disability permanent in nature, but only if the eligible person remains the spouse of the disabled person throughout the period.

(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), (D), or (E) of this title) whose eligibility is based on the death or disability of a spouse or on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) 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 person 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 based on a spouse being listed in one of the categories referred to in 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 so listed.

[(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; Pub. L. 109–444, § 3(b)(3), Dec. 21, 2006, 120 Stat. 3306; Pub. L. 109–461, title III, § 301(b)(3), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3426, 3468; Pub. L. 110–389, title III, § 321, Oct. 10, 2008, 122 Stat. 4168.)

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

2008—Subsec. (b)(1). Pub. L. 110–389 substituted ''subparagraph (B), (C), or (D)'' for ''subparagraph (B) or (C)'' in subpar. (A) and added subpar. (D).

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

Subsec. (a). Pub. L. 109–461, § 301(b)(3)(A)(i), substituted ''an eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' for ''an eligible person (within the meaning of section 3501(a)(1)(A) of this title)''.

Pub. L. 109–444, § 3(b)(3)(A)(i), which substituted ''an eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' for ''an eligible person (within the meaning of section 3501(a)(1)(A) of this title)'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (a)(6). Pub. L. 109–461, § 301(b)(3)(A)(ii), substituted ''a parent being listed in one of the categories referred to in section 3501(a)(1)(C)'' for ''the provisions of section 3501(a)(1)(A)(iii)''.

Pub. L. 109–444, § 3(b)(3)(A)(ii), which substituted ''a parent being listed in one of the categories referred to in section 3501(a)(1)(C)'' for ''the provisions of section 3501(a)(1)(A)(iii)'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (b)(1)(A). Pub. L. 109–461, § 301(b)(3)(B)(i), inserted ''or a person made eligible by the disability of a spouse under section 3501(a)(1)(E) of this title'' after ''section 3501(a)(1) of this title'' and substituted ''3501(a)(1)(D)(ii), or 3501(a)(1)(E) of this title'' for ''or 3501(a)(1)(D)(ii) of this title''.

Pub. L. 109–444, § 3(b)(3)(B)(i), which inserted ''or a person made eligible by the disability of a spouse under section 3501(a)(1)(E) of this title'' after ''section 3501(a)(1) of this title'' and substituted ''3501(a)(1)(D)(ii), or 3501(a)(1)(E) of this title'' for ''or 3501(a)(1)(D)(ii) of this title'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (b)(1)(B)(iii). Pub. L. 109–461, § 301(b)(3)(B)(ii), added cl. (iii).

Pub. L. 109–444, § 3(b)(3)(B)(ii), which added cl. (iii) identical to that added by Pub. L. 109–461, § 301(b)(3)(B)(ii), was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (b)(2). Pub. L. 109–461, § 301(b)(3)(B)(iii), substituted ''(D), or (E) of this title) whose eligibility is based on the death or disability of a spouse or on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' for ''or (D) of this title)''.

Pub. L. 109–444, § 3(b)(3)(B)(iii), which substituted ''(D), or (E) of this title) whose eligibility is based on the death or disability of a spouse or on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' for ''or (D) of this title)'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (d). Pub. L. 109–461, § 301(b)(3)(C), substituted ''person from whom eligibility'' for ''veteran from whom eligibility''.

Pub. L. 109–444, § 3(b)(3)(C), which substituted ''person from whom eligibility'' for ''veteran from whom eligibility'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

Subsec. (e). Pub. L. 109–461, § 301(b)(3)(D), inserted ''based on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' after ''of this title'' and ''so'' after ''the spouse was'' and struck out ''by the Secretary concerned in one of the categories referred to in such section or December 24, 1970, whichever last occurs'' before period at end.

Pub. L. 109–444, § 3(b)(3)(D), which inserted ''based on a spouse being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' after ''of this title'' and ''so'' after ''the spouse was'' and struck out ''by the Secretary concerned in one of the categories referred to in such section or December 24, 1970, whichever last occurs'' before period at end, was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

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 2006 AMENDMENT

Amendment by section 301(b)(3) of Pub. L. 109–461 applicable with respect to a payment of educational assistance for a course of education pursued after Dec. 22, 2006, see section 301(d) of Pub. L. 109–461, set out as a note under section 3501 of this title.

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 second-

ary 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 for-

eign 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 es-

tablishment 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, local, or other penal institution or correctional facility 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; Pub. L. 109–461, title X, § 1002(e), Dec. 22, 2006, 120 Stat. 3465.)

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–461 substituted ''local, or other penal institution or correctional facility'' for ''or local penal institution''.

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 (other than a person made eligible under subparagraph (C) of such section[1] by reason of a spouse being listed in one of the categories referred to in that subparagraph) 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; Pub. L. 109–444, § 3(b)(4), Dec. 21, 2006, 120 Stat. 3307; Pub. L. 109–461, title III, § 301(b)(4), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3427, 3468.)

REFERENCES IN TEXT

Such section, referred to in text, probably means section 3501(a)(1) of this title. See 2006 Amendment note below.

AMENDMENTS

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

Pub. L. 109–461, § 301(b)(4), substituted ''(other than a person made eligible under subparagraph (C) of such section by reason of a spouse being listed in one of the categories referred to in that subparagraph)'' for ''(as defined in subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title)''.

Pub. L. 109–444, which substituted ''(other than a person made eligible under subparagraph (C) of such section by reason of a spouse being listed in one of the categories referred to in that subparagraph)'' for ''(as defined in subparagraphs (A), (B), and (D) of section 3501(a)(1) of this title)'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

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 2006 AMENDMENT

Amendment by section 301(b)(4) of Pub. L. 109–461 applicable with respect to a payment of educational assistance for a course of education pursued after Dec. 22, 2006, see section 301(d) of Pub. L. 109–461, set out as a note under section 3501 of this title.

[1] See References in Text note below.

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 whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) 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; Pub. L. 109–444, § 3(b)(5), Dec. 21, 2006, 120 Stat. 3307; Pub. L. 109–461, title III, § 301(b)(5), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3427, 3468.)

AMENDMENTS

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

Pub. L. 109–461, § 301(b)(5), substituted ''each eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' for ''each eligible person defined in section 3501(a)(1)(A) of this title''.

Pub. L. 109–444, which substituted ''each eligible person whose eligibility is based on the death or disability of a parent or on a parent being listed in one of the categories referred to in section 3501(a)(1)(C) of this title'' for ''each eligible person defined in section 3501(a)(1)(A) of this title'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

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 2006 AMENDMENT

Amendment by section 301(b)(5) of Pub. L. 109–461 applicable with respect to a payment of educational assistance for a course of education pursued after Dec. 22, 2006, see section 301(d) of Pub. L. 109–461, set out as a note under section 3501 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.

§ 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

(a) BASIC ELIGIBILITY.—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.

(b) ADMINISTRATIVE PROVISIONS.—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.

(c) DELIMITING DATES.—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; Pub. L. 109–233, title V, § 503(8)(A), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Pub. L. 109–233 revised style of subsec. headings.

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

Sec.
3670. Scope of approval.
3671. Designation.
3672. Approval of courses.
3673. Approval activities: cooperation and coordination of activities.
3674. Reimbursement of expenses.
3674A. Evaluations of agency performance; qualifications and performance of agency personnel.
3675. Approval of accredited courses.
3676. Approval of nonaccredited courses.
3677. Approval of training on the job.
3678. Notice of approval of courses.
3679. Disapproval of courses.

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.

Sec.
3684A. Procedures relating to computer matching program.
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

2008—Pub. L. 110–389, title III, § 326(a)(2)(B), Oct. 10, 2008, 122 Stat. 4169, substituted ''Approval activities: cooperation and coordination of activities'' for ''Cooperation'' in item 3673.

Pub. L. 110–387, title IX, § 901(a)(3), Oct. 10, 2008, 122 Stat. 4142, substituted ''Procedures relating to computer matching program'' for ''Procedures relating to computer matching programs'' in item 3684A.

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 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. Approval activities: cooperation and coordination of activities

(a) COOPERATION IN ACTIVITIES.—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) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure the coordination of approval activities performed by State approving agencies under this chapter and chapters 34 and 35 of this title and approval activities performed by the Department of Labor, the Department of Education, and other entities in order to reduce overlap and improve efficiency in the performance of such activities.

(c) AVAILABILITY OF INFORMATION MATERIAL.—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; Pub. L. 110–389, title III, § 326(a)(1), (2)(A), (3), Oct. 10, 2008, 122 Stat. 4169.)

AMENDMENTS

2008—Pub. L. 110–389, § 326(a)(2)(A), amended section catchline generally. Prior to amendment, catchline read as follows: ''Cooperation''.

Subsec. (a). Pub. L. 110–389, § 326(a)(3)(A), inserted heading.

Subsecs. (b), (c). Pub. L. 110–389, § 326(a)(1), (3)(B), added subsec. (b), redesignated former subsec. (b) as (c), and inserted heading in subsec. (c).

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 shall be $19,000,000.

(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 agreement 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; Pub. L. 110–252, title V, § 5005, June 30, 2008, 122 Stat. 2379.)

AMENDMENTS

2008—Subsec. (a)(4). Pub. L. 110–252 substituted ''shall be $19,000,000.'' for ''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.''

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 enactment 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 main-

[1] See References in Text note below.

tain such records as the Secretary determines to be necessary to comply with reporting requirements that apply under section 3684(a)(1) of this 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 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 before completion and—

(A) in the case of an institution (other than (i) a Federal, State, or local Government institution or (ii) an institution described in subparagraph (B)), such policy provides 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; or

(B) in the case of an institution that is a nonaccredited public educational institution, the institution has and maintains a refund policy regarding the unused portion of tuition, fees, and other charges that is substantially the same as the refund policy fol-

lowed by accredited public educational institutions located within the same State as such institution.

(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; Pub. L. 109–461, title III, § 303, Dec. 22, 2006, 120 Stat. 3428; Pub. L. 110–389, title III, § 322, Oct. 10, 2008, 122 Stat. 4168.)

AMENDMENTS

2008—Subsec. (c)(4). Pub. L. 110–389 struck out ''and the Secretary'' before ''so notified''.

2006—Subsec. (c)(13). Pub. L. 109–461 substituted ''before completion and—'' and subpars. (A) and (B) for ''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.''

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.

(3) The requirement for certification under paragraph (1) shall not apply to training described in section 3452(e)(2) of this title.

(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 ma-

terial, 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 assessment 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; Pub. L. 110–389, title III, § 325, Oct. 10, 2008, 122 Stat. 4169.)

AMENDMENTS

2008—Subsec. (b)(3). Pub. L. 110–389 added par. (3).

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 re-

quirements 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

(a) PERIOD FOR WHICH PAYMENT MAY BE MADE.—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.

(b) CORRESPONDENCE TRAINING CERTIFICATIONS.—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.

(c) APPRENTICESHIP AND OTHER ON-JOB TRAINING.—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.

(d) ADVANCE PAYMENT OF INITIAL EDUCATIONAL ASSISTANCE OR SUBSISTENCE ALLOWANCE.—(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.

(e) RECOVERY OF ERRONEOUS PAYMENTS.—(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.

(f) PAYMENTS FOR LESS THAN HALF-TIME TRAINING.—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.

(g) DETERMINATION OF ENROLLMENT, PURSUIT, AND ATTENDANCE.—(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; Pub. L. 109–233, title V, § 503(8)(A), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Pub. L. 109–233 revised style of subsec. headings.

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 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.

§ 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

Chapter 106 of title 10, referred to in subsecs. (a) and (b)(2), which consisted of sections 2131 to 2138, was amended by Pub. L. 103–337, div. A, title XVI, § 1663(b)(2), Oct. 5, 1994, 108 Stat. 3006, to renumber sections 2131 to 2137 as 16131 to 16137, respectively, and transfer them to chapter 1606 of Title 10, Armed Forces.

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.

(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 eligi-

[1] So in original.

ble 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), (D), or (E) 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 five 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; Pub. L. 109–444, § 3(c)(1), Dec. 21, 2006, 120 Stat. 3307; Pub. L. 109–461, title III, § 301(c)(1), title X, § 1006(b), Dec. 22, 2006, 120 Stat. 3427, 3468; Pub. L. 110–389, title III, § 323, Oct. 10, 2008, 122 Stat. 4168.)

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–389 substituted ''five'' for ''ten''.

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

Pub. L. 109–461, § 301(c)(1), substituted ''(D), or (E)'' for ''or (D)''.

Pub. L. 109–444, which substituted ''(D), or (E)'' for ''or (D)'', was terminated by Pub. L. 109–461, § 1006(b). See Amendment notes above.

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 2006 AMENDMENT

Amendment by section 301(c)(1) of Pub. L. 109–461 applicable with respect to a payment of educational assistance for a course of education pursued after Dec. 22, 2006, see section 301(d) of Pub. L. 109–461, set out as a note under section 3501 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 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 carrying 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; Pub. L. 110–252, title V, § 5003(b)(2)(A)(ii), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTION (b)

Pub. L. 110–252, title V, § 5003(b)(2)(A)(ii), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsection (b) of this section is amended by inserting ''33,'' after ''32,''.

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 2008 AMENDMENT

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

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; Pub. L. 110–252, title V, § 5003(b)(2)(A)(iii), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SECTION

Pub. L. 110–252, title V, § 5003(b)(2)(A)(iii), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsections (a)(1), (c)(1), (c)(1)(G), (d), and (e)(2) of this section are amended by inserting ''33,'' after ''32,''.

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 OF 2008 AMENDMENT

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

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

(a) OVERCHARGES BY EDUCATIONAL INSTITUTIONS.—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.

(b) DISCONTINUANCE OF ALLOWANCES.—(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.

(c) EXAMINATION OF RECORDS.—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.

(d) FALSE OR MISLEADING STATEMENTS.—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; Pub. L. 109–233, title V, § 503(8)(A), June 15, 2006, 120 Stat. 416; Pub. L. 110–252, title V, § 5003(b)(2)(A)(iv), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTION (b)(3)(A)

Pub. L. 110–252, title V, § 5003(b)(2)(A)(iv), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsection (b)(3)(A) of this section is amended by inserting ''33,'' after ''32,''.

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

2006—Pub. L. 109–233 revised style of subsec. headings.

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 2008 AMENDMENT

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

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)(1) 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—

(A) the veteran or eligible person has successfully completed the former program;

(B) the program leads to a vocational, educational, or professional objective in the same general field as the former program;

(C) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program;

(D) 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; or

(E) the change from the program to another program is at the same educational institution and such educational institution determines that the new program is suitable to the aptitudes, interests, and abilities of the veteran or eligible person and certifies to the Secretary the enrollment of the veteran or eligible person in the new program.

(2) A veteran or eligible person undergoing a change from one program of education to another program of education as described in paragraph (1)(E) shall not be required to apply to the Secretary for approval of such change.

(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; Pub. L. 110–389, title III, § 324, Oct. 10, 2008, 122 Stat. 4168.)

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

2008—Subsec. (d). Pub. L. 110–389 designated existing provisions as par. (1), redesignated former pars. (1) to (4) as subpars. (A) to (D) of par. (1), respectively, and added subpar. (E) of par. (1) and par. (2).

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 chapter, 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; Pub. L. 110–252, title V, § 5003(b)(2)(A)(v), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTIONS (a) AND (b)

Pub. L. 110–252, title V, § 5003(b)(2)(A)(v), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsections (a) and (b) of this section are amended by inserting "33," after "32,".

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 2008 AMENDMENT

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

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; Pub. L. 110–252, title V, § 5003(b)(1)(B), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTION (a)(4)

Pub. L. 110–252, title V, § 5003(b)(1)(B), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsection (a)(4) of this section is amended to read as follows:

(4) Chapters 30, 32, 33, 34, 35, and 36.

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 2008 AMENDMENT

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

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; Pub. L. 110–252, title V, § 5003(b)(2)(A)(vi), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTION (a)

Pub. L. 110–252, title V, § 5003(b)(2)(A)(vi), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsection (a) of this section is amended by inserting ''33,'' after ''32,''.

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 2008 AMENDMENT

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

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; amended Pub. L. 110–252, title V, § 5003(b)(2)(B), June 30, 2008, 122 Stat. 2375.)

AMENDMENT OF SUBSECTION (b)(1)

Pub. L. 110–252, title V, § 5003(b)(2)(B), (d), June 30, 2008, 122 Stat. 2375, 2378, provided that, effective Aug. 1, 2009, subsection (b)(1) of this section is amended by striking ''or 32'' and inserting ''32, or 33''.

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 1797A of this title as this section.

EFFECTIVE DATE OF 2008 AMENDMENT

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

[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

2006—Pub. L. 109–233, title I, §§ 103(f)(4), 104(c), June 15, 2006, 120 Stat. 401, 402, substituted ''DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS'' for ''NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM'' in item for subchapter V, ''Direct housing loans to Native American veterans; program authority'' for ''Pilot program'' in item 3761, ''Direct housing loans to Native American veterans; program administration'' for ''Direct housing loans to Native American veterans'' in item 3762, and ''Qualified non-Native American veterans'' for ''Definitions'' in item 3764 and added item 3765.

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.

(F) Each veteran who was discharged or released from a period of active duty of 90 days or more by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(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; Pub. L. 110–317, § 6(a), Aug. 29, 2008, 122 Stat. 3528.)

AMENDMENTS

2008—Subsec. (a)(2)(F). Pub. L. 110–317 added subpar. (F).

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 2008 AMENDMENT

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

EFFECTIVE DATE OF 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), (5), (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; Pub. L. 110–389, title V, § 504(a), Oct. 10, 2008, 122 Stat. 4176.)

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

2008—Subsec. (a)(1)(A)(i)(IV). Pub. L. 110–389 inserted ''(5),'' after ''(3),''.

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.

TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY SECRETARY OF VETERANS AFFAIRS

Pub. L. 110–389, title V, § 501, Oct. 10, 2008, 122 Stat. 4175, provided that: ''Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act [Oct. 10, 2008] and ending on December 31, 2011, the term 'maximum guaranty amount' shall mean an amount equal to 25 percent of the higher of—

''(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

''(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.''

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 sec-

tion) 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 provisions 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 2012 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; Pub. L. 110–389, title V, § 505(a), Oct. 10, 2008, 122 Stat. 4176.)

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

2008—Subsec. (a). Pub. L. 110–389 substituted ''2012'' for ''2008''.

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 2012 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 such percentage points as the Secretary may prescribe; 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; Pub. L. 109–233, title I, § 102, June 15, 2006, 120 Stat. 399; Pub. L. 110–389, title V, § 505(b), Oct. 10, 2008, 122 Stat. 4176.)

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

2008—Subsec. (a). Pub. L. 110–389 substituted ''2012'' for ''2008''.

2006—Subsec. (c)(4). Pub. L. 109–233 substituted ''such percentage points as the Secretary may prescribe'' for ''1 percentage point''.

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 auto-

matically 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).

(12) With respect to a loan guaranteed after the date of the enactment of this paragraph and before the date that is five years after that date, to purchase stock or membership in a cooperative housing corporation for the purpose of entitling the veteran to occupy for dwelling purposes a single family residential unit in a development, project, or structure owned or leased by such corporation, in accordance with subsection (h).

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 veteran'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 100 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 Secretary 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.

(h)(1) A loan may not be guaranteed under subsection (a)(12) unless—

(A) the development, project, or structure of the cooperative housing corporation complies with such criteria as the Secretary prescribes in regulations; and

(B) the dwelling unit that the purchase of stock or membership in the development, project, or structure of the cooperative housing corporation entitles the purchaser to occupy is a single family residential unit.

(2) In this subsection, the term ''cooperative housing corporation'' has the meaning given such term in section 216(b)(1) of the Internal Revenue Code of 1986.

(3) When applying the term ''value of the property'' to a loan guaranteed under subsection (a)(12), such term means the appraised value of the stock or membership entitling the purchaser to the permanent occupancy of the dwelling unit in the development, project, or structure of the cooperative housing corporation.

(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; Pub. L. 109–461, title V, § 501, Dec. 22, 2006, 120 Stat. 3431; Pub. L. 110–389, title V, § 504(b), Oct. 10, 2008, 122 Stat. 4176.)

References in Text

The date of the enactment of this paragraph, referred to in subsec. (a)(12), is the date of enactment of Pub. L. 109–461, which was approved Dec. 22, 2006.

Section 216(b)(1) of the Internal Revenue Code of 1986, referred to in subsec. (h)(2), is classified to section 216(b)(1) of Title 26, Internal Revenue Code.

Codification

Another section 11(b) of Pub. L. 100–198 amended section 1831 [now 3731] of this title.

Amendments

2008—Subsec. (b)(8). Pub. L. 110–389 substituted ''100 percent'' for ''90 percent''.

2006—Subsec. (a)(12). Pub. L. 109–461, § 501(a), added par. (12).

Subsec. (h). Pub. L. 109–461, § 501(b), added subsec. (h).

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 provide 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, 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 3 and 7(12)–(15) of Pub. L. 94–324 effective Oct. 1, 1976, and June 30, 1976, respec-

tively, 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 portions 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, formerly 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. 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 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.''

TEMPORARY INCREASE IN CERTAIN HOUSING LOAN FEES

Pub. L. 109–233, title I, § 101(f), June 15, 2006, 120 Stat. 399, provided that: ''For a subsequent loan described in subsection (a) of section 3710 of title 38, United States Code, to purchase or construct a dwelling with 0-down or any other subsequent loan described in that subsection, other than a loan with 5-down or 10-down, that is closed during fiscal year 2007, the Secretary of Veterans Affairs shall apply section 3729(b)(2) of such title by substituting '3.35' for '3.30'.''

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 paragraphs (5)(B), (6), (7)(B), and (8)(B), 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; Pub. L. 109–233, title V, § 503(9), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (c)(10)(D). Pub. L. 109–233 substituted ''paragraphs (5)(B), (6), (7)(B), and (8)(B)'' for ''clause (B) of paragraphs (5), (6), (7), and (8) of this subsection''.

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)''.

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 December 16, 2003[1] 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,''.

[1] So in original. Probably should be followed by a comma.

(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; Pub. L. 109–233, title V, § 503(10), June 15, 2006, 120 Stat. 416.)

AMENDMENTS

2006—Subsec. (a)(7). Pub. L. 109–233, which directed the substitution of ''December 16, 2003'' for ''the date of the enactment of the Veterans Benefits Act of 2003'', was executed by making the substitution for ''the date of the enactment of the Veterans' Benefits Act of 2003'' to reflect the probable intent of Congress.

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, § 2(1 et seq.), July 18, 1958, 72 Stat. 384, 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—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

AMENDMENTS

2006—Pub. L. 109–233, title I, § 103(f)(1), June 15, 2006, 120 Stat. 400, substituted ''DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS'' for ''NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM'' in subchapter heading.

§ 3761. Direct housing loans to Native American veterans; program authority

(a) The Secretary shall 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 make such loans in accordance with the provisions of this subchapter.

(b) 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.

(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; Pub. L. 109–233, title I, § 103(a), (f)(2), June 15, 2006, 120 Stat. 399, 400.)

AMENDMENTS

2006—Pub. L. 109–233, § 103(f)(2), amended section catchline generally, substituting ''Direct housing loans to Native American veterans; program authority'' for ''Pilot program''.

Subsec. (a). Pub. L. 109–233, § 103(a)(1), struck out ''establish and implement a pilot program under which the Secretary may'' before ''make direct housing loans'' and substituted ''shall make such loans'' for ''shall establish and implement the pilot program''.

Subsec. (b). Pub. L. 109–233, § 103(a)(2), substituted ''The'' for ''In carrying out the pilot program under this subchapter, the''.

Subsec. (c). Pub. L. 109–233, § 103(a)(3), struck out subsec. (c) which read as follows: ''No loans may be made under this subchapter after December 31, 2008.''

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

Pub. L. 102–547, § 8(b), Oct. 28, 1992, 106 Stat. 3640, which required the Secretary of Veterans Affairs to consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans in carrying out the direct housing loan pilot program, was repealed by Pub. L. 109–233, title I, § 103(c)(2), June 15, 2006, 120 Stat. 400.

ANNUAL REPORTS ON PILOT PROGRAM

Pub. L. 102–547, § 8(d), Oct. 28, 1992, 106 Stat. 3640, 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

Pub. L. 102–547, § 8(e), Oct. 28, 1992, 106 Stat. 3640, 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; program administration

(a) The Secretary may make a direct housing loan to a Native American veteran under this subchapter 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 loans under this subchapter are made 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 veteran under this section may not exceed $80,000.

(B)(i) Subject to clause (ii), 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 make direct housing loans under this subchapter to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

(ii) The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.

(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 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 this subchapter and in assisting such organizations and veterans with respect to such housing benefits.

(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 with respect to such benefits.

(F) Outstationing loan guarantee specialists in tribal facilities on a part-time basis if requested by the tribal government.

(j) The Secretary shall include as part of the annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for the fiscal year covered by the report.

(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; Pub. L. 109–233, title I, § 103(b), (c)(1), (d), (e), (f)(3), June 15, 2006, 120 Stat. 400, 401.)

AMENDMENTS

2006—Pub. L. 109–233, § 103(f)(3), amended section catchline generally, substituting ''Direct housing loans to Native American veterans; program administration'' for ''Direct housing loans to Native American veterans''.

Subsec. (a). Pub. L. 109–233, § 103(c)(1)(A), inserted ''under this subchapter'' after ''to a Native American veteran'' in introductory provisions.

Subsec. (b)(1)(E). Pub. L. 109–233, § 103(c)(1)(B), substituted ''loans under this subchapter are made'' for ''the pilot program established under this subchapter is implemented''.

Subsec. (c)(1)(A). Pub. L. 109–233, § 103(e), inserted ''veteran'' after ''Native American''.

Subsec. (c)(1)(B). Pub. L. 109–233, § 103(c)(1)(C), (d), designated existing provisions as cl. (i), substituted ''Subject to clause (ii), the'' for ''The'' after cl. (i) designation, substituted ''make direct housing loans under this subchapter'' for ''carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans'', and added cl. (ii).

Subsec. (i)(1). Pub. L. 109–233, § 103(c)(1)(D)(i), struck out ''the pilot program provided for under this subchapter and'' after ''educate Native American veterans of''.

Subsec. (i)(2)(A), (E). Pub. L. 109–233, § 103(c)(1)(D)(ii), (iii), substituted ''under this subchapter and in assisting such organizations and veterans with respect to such housing benefits'' for ''under the pilot program and in assisting such organizations and veterans in participating in the pilot program'' in subpar. (A) and ''with respect to such benefits'' for ''in participating in the pilot program'' in subpar. (E).

Subsec. (j). Pub. L. 109–233, § 103(b), amended subsec. (j) generally. Prior to amendment, subsec. (j) related to the Secretary's transmittal to the Committees on Veterans' Affairs of the Senate and House of Representatives of an annual report relating to the implementation of the Native American veteran housing loan pilot program.

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. Qualified non-Native American veterans

(a) TREATMENT OF NON-NATIVE AMERICAN VETERANS.—Subject to the succeeding provisions of this section, for purposes of this subchapter—

(1) a qualified non-Native American veteran is deemed to be a Native American veteran; and

(2) for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal orga-

nization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

(b) USE OF LOAN.—In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

(c) RESTRICTIONS IMPOSED BY TRIBAL ORGANIZATIONS.—Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.

(Added Pub. L. 109–233, title I, § 104(a)(2), June 15, 2006, 120 Stat. 401.)

PRIOR PROVISIONS

A prior section 3764 was renumbered section 3765 of this title.

§ 3765. 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.

(5) The term ''qualified non-Native American veteran'' means a veteran who—

(A) is the spouse of a Native American, but

(B) is not a Native American.

(Added Pub. L. 102–547, § 8(a), Oct. 28, 1992, 106 Stat. 3639, § 3764; renumbered § 3765 and amended Pub. L. 109–233, title I, § 104(a)(1), (b), June 15, 2006, 120 Stat. 401, 402.)

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.

AMENDMENTS

2006—Pub. L. 109–233, § 104(a)(1), renumbered section 3764 of this title as this section.

Par. (5). Pub. L. 109–233, § 104(b), added par. (5).

[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 convey-

ance (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.
4101. Definitions.
4102. Purpose.
4102A. Assistant Secretary of Labor for Veterans' Employment and Training; program functions; Regional Administrators.
4103. Directors and Assistant Directors for Veterans' Employment and Training; additional Federal personnel.
4103A. Disabled veterans' outreach program.
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[4104A. Repealed.]
4105. Cooperation of Federal agencies.
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4108. Cooperation and coordination.
4109. National Veterans' Employment and Training Services Institute.
4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach.
4110A. Special unemployment study.
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[4111. Repealed.]
4112. Performance incentive awards for quality employment, training, and placement services.
4113. Outstationing of Transition Assistance Program personnel.
4114. Credentialing and licensure of veterans: demonstration project.

AMENDMENTS

2006—Pub. L. 109–461, title VI, § 604(a)(2), Dec. 22, 2006, 120 Stat. 3439, added item 4114.

Pub. L. 109–233, title II, § 202(a)(3), June 15, 2006, 120 Stat. 403, substituted ''Advisory Committee on Veterans Employment, Training, and Employer Outreach'' for ''Advisory Committee on Veterans Employment and Training'' in item 4110.

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, established within the Department of Labor the President's National Hire Veterans Committee to carry out a national program to raise employer awareness of skills of veterans and benefits of hiring veterans, required reports to Congress not later than Dec. 31, 2003, 2004, and 2005 on the Committee's activities, and provided for termination of the Committee 60 days after submitting the report that was due on Dec. 31, 2005.

REPORT ON IMPLEMENTATION OF EMPLOYMENT REFORMS

Pub. L. 107–288, § 7, Nov. 7, 2002, 116 Stat. 2048, directed that the Comptroller General conduct a study on the implementation by the Secretary of Labor of the provisions of Pub. L. 107–288 during the program years beginning during fiscal years 2003 and 2004 and, not later than 6 months after the conclusion of the fiscal year 2004 program, submit to Congress a report on the study with appropriate recommendations.

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.

(8) With advice and assistance from the Advisory Committee on Veterans Employment and[1] Training, and Employer Outreach established under section 4110 of this title, furnish information to employers (through meetings in person with hiring executives of corporations and otherwise) 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, and to facilitate employment of veterans and disabled veterans through participation in labor exchanges (Internet-based and otherwise), and other means.

(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) For each employee of the State who is assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter—

(I) the date on which the employee is so assigned; and

(II) whether the employee has satisfactorily completed such training by the National Veterans' Employment and Training Services Institute as the Secretary requires for purposes of paragraph (8).

(iv) 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 regula-

[1] So in original. The word ''and'' probably should be a comma.

tion, 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) 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 any program year, one percent 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.

(8)(A) As a condition 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 require the State to require each employee hired by the State who is assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under this chapter to satisfactorily complete training provided by the National Veterans' Employment and Training Services Institute during the three-year period that begins on the date on which the employee is so assigned.

(B) For any employee described in subparagraph (A) who does not complete such training during such period, the Secretary may reduce by an appropriate amount the amount made available to the State employing that employee.

(C) The Secretary may establish such reasonable exceptions to the completion of training otherwise required under subparagraph (A) as the Secretary considers appropriate.

(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) 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; Pub. L. 109–233, title II, § 201, title V, § 503(11), June 15, 2006, 120 Stat. 402, 416; Pub. L. 109–461, title VI, § 601(a), (b), Dec. 22, 2006, 120 Stat. 3436.)

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

2006—Subsec. (b)(8). Pub. L. 109–233, § 201, added par. (8).

Subsec. (c)(2)(A)(iii), (iv). Pub. L. 109–461, § 601(b), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (c)(7). Pub. L. 109–233, § 503(11)(A), substituted ''Of'' for ''With respect to program years beginning during or after fiscal year 2004, one percent of'' and ''for any program year, one percent'' for ''for the program year''.

Subsec. (c)(8). Pub. L. 109–461, § 601(a), added par. (8).

Subsec. (f)(1). Pub. L. 109–233, § 503(11)(B), substituted ''The'' for ''By not later than May 7, 2003, the''.

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 2006 AMENDMENT

Pub. L. 109–461, title VI, § 601(c), Dec. 22, 2006, 120 Stat. 3436, provided that: ''Paragraph (8) of section 4102A(c) of title 38, United States Code, as added by subsection (a), and clause (iii) of section 4102A(c)(2)(A) of such title, as added by subsection (b), shall apply with respect to a State employee assigned to perform the duties of a disabled veterans' outreach program specialist or a local veterans' employment representative under chapter 41 of such title who is so assigned on or after January 1, 2006.''

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)(A) 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.

(B) The Secretary may waive the requirement in subparagraph (A) with respect to a Director for Veterans' Employment and Training if the Secretary determines that the waiver is in the public interest. Any such waiver shall be made on a case-by-case basis.

(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; Pub. L. 110–389, title III, § 316, Oct. 10, 2008, 122 Stat. 4167.)

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

2008—Subsec. (a)(2). Pub. L. 110–389 designated existing provisions as subpar. (A) and added subpar. (B).

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.

(c) PART-TIME EMPLOYEES.—A part-time disabled veterans' outreach program specialist shall perform the functions of a disabled veterans' outreach program specialist under this section on a half-time basis.

(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; Pub. L. 109–461, title VI, § 602(a), Dec. 22, 2006, 120 Stat. 3437.)

AMENDMENTS

2006—Subsec. (c). Pub. L. 109–461 added subsec. (c).

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 2006 AMENDMENT

Pub. L. 109–461, title VI, § 602(c), Dec. 22, 2006, 120 Stat. 3437, provided that: ''Section 4103A(c) of title 38, United States Code, as added by subsection (a), and section 4104(d) of such title, as amended by subsection (b), shall apply with respect to pay periods beginning after the date that is 180 days after the date of the enactment of this Act [Dec. 22, 2006].''

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) PART-TIME EMPLOYEES.—A part-time local veterans' employment representative shall perform the functions of a local veterans' employment representative under this section on a half-time basis.

(e) 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; Pub. L. 109–461, title VI, §602(b), Dec. 22, 2006, 120 Stat. 3437.)

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

2006—Subsecs. (d), (e). Pub. L. 109–461 added subsec. (d) and redesignated former subsec. (d) as (e).

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 2006 AMENDMENT

Subsec. (d) of this section as amended by Pub. L. 109–461 applicable with respect to pay periods beginning after the date that is 180 days after Dec. 22, 2006, see section 602(c) of Pub. L. 109–461, set out as a note under section 4103A of this title.

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, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve.

(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; Pub. L. 109–233, title V, § 503(12), June 15, 2006, 120 Stat. 417.)

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.

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.

[1] See References in Text note below.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–233 substituted "shall, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding" for "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" and struck out before period at end "and shall provide, on the 15th day of each month thereafter, updated information regarding the list".

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).

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, Training, and Employer Outreach

(a)(1) There is hereby established within the Department of Labor an advisory committee to be known as the Advisory Committee on Veterans Employment, Training, and Employer Outreach.

(2) The advisory committee shall—

(A) assess the employment and training needs of veterans and their integration into the workforce;

(B) determine the extent to which the programs and activities of the Department of Labor are meeting such needs;

(C) assist the Assistant Secretary of Labor for Veterans' Employment and Training in carrying out outreach activities to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

(D) make recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training, with respect to outreach activities and the employment and training of veterans; and

(E) 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 16, individuals to serve as members of the advisory committee as follows:

(A) Seven individuals, one each from among representatives nominated by each of the following organizations:

(i) The National Society of Human Resource Managers.

(ii) The Business Roundtable.

(iii) The National Association of State Workforce Agencies.

(iv) The United States Chamber of Commerce.

(v) The National Federation of Independent Business.

(vi) A nationally recognized labor union or organization.

(vii) The National Governors Association.

(B) Not more than five individuals from among representatives nominated by veterans service organizations that have a national employment program.

(C) Not more than five 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 Director of the Office of Personnel Management.

(4) The Assistant Secretary of Labor for Veterans Employment and Training.

(5) The Assistant Secretary of Labor for Employment and Training.

(6) The Administrator of the Small Business Administration.

(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 December 31 of each year, the advisory committee shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the employment and training needs of veterans, with special emphasis on disabled veterans, for the previous fiscal year. Each such report shall contain—

(A) an assessment of the employment and training needs of veterans and their integration into the workforce;

(B) an assessment of the outreach activities carried out by the Secretary of Labor to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

(C) an evaluation of the extent to which the programs and activities of the Department of Labor are meeting such needs;

(D) a description of the activities of the advisory committee during that fiscal year;

(E) a description of activities that the advisory committee proposes to undertake in the succeeding fiscal year; and

(F) 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; Pub. L. 109–233, title II, § 202(a)(1), (2), (b)–(d), June 15, 2006, 120 Stat. 403, 404; Pub. L. 109–461, title VI, § 604(b), Dec. 22, 2006, 120 Stat. 3439; Pub. L. 110–387, title IX, § 901(a)(4), Oct. 10, 2008, 122 Stat. 4142.)

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

2008—Subsec. (c)(1). Pub. L. 110–387 substituted ''16'' for ''15'' in introductory provisions.

2006—Pub. L. 109–233, § 202(a)(2), amended section catchline generally, substituting ''Advisory Committee on Veterans Employment, Training, and Employer Outreach'' for ''Advisory Committee on Veterans Employment and Training''.

Subsec. (a)(1). Pub. L. 109–233, § 202(a)(1), substituted ''Advisory Committee on Veterans Employment, Training, and Employer Outreach'' for ''Advisory Committee on Veterans Employment and Training''.

Subsec. (a)(2). Pub. L. 109–233, § 202(b), inserted ''and their integration into the workforce'' after ''veterans'' in subpar. (A), added subpars. (C) and (D), and redesignated former subpar. (C) as (E).

Subsec. (c)(1). Pub. L. 109–233, § 202(c)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''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.''

Subsec. (c)(1)(A). Pub. L. 109–461 substituted ''Seven'' for ''Six'' in introductory provisions and added cl. (vii).

Subsec. (d)(3) to (12). Pub. L. 109–233, § 202(c)(2), struck out pars. (3), (4), (8), and (10) to (12) which related to certain ex officio, nonvoting members of the advisory committee and redesignated pars. (5) to (7) and (9) as (3) to (6), respectively.

Subsec. (f)(1). Pub. L. 109–233, § 202(d)(1), substituted first sentence for former first sentence which read ''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.''

Subsec. (f)(1)(A). Pub. L. 109–233, § 202(d)(2), inserted ''and their integration into the workforce'' after ''veterans''.

Subsec. (f)(1)(B) to (F). Pub. L. 109–233, § 202(d)(3)–(6), added subpars. (B), (D), and (E), and redesignated former subpars. (B) and (C) as (C) and (F), respectively.

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.

CHANGE OF NAME

Pub. L. 109–233, title II, § 202(a)(4), June 15, 2006, 120 Stat. 403, provided that: "Any reference to the Advisory Committee established under section 4110 of such title [this title] in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Advisory Committee on Veterans Employment, Training, and Employer Outreach."

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 an annual study of unemployment among each of the following categories of veterans:

(A) Veterans who were called to active duty while members of the National Guard or a Reserve Component.

(B) Veterans who served in combat or in a war zone in the Post 9/11 Global Operations theaters.

(C) Veterans who served on active duty during the Post 9/11 Global Operations period who did not serve in the Post 9/11 Global Operations theaters.

(D) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

(E) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

(F) Veterans discharged or released from active duty within four years of the applicable study.

(G) Special disabled veterans.

(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).

(c) In this section:

(1) The term "Post 9/11 Global Operations period" means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or law.

(2) The term "Post 9/11 Global Operations theaters" means Afghanistan, Iraq, or any other theater in which the Global War on Terrorism Expeditionary Medal is awarded for service.

(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; Pub. L. 110–389, title III, § 317, Oct. 10, 2008, 122 Stat. 4167.)

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–389, § 317(a), substituted "an annual study" for "a study every two years" in introductory provisions, added subpars. (A) to (G), and struck out former subpars. (A) to (E) which read as follows:

"(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."

Subsec. (c). Pub. L. 110–389, § 317(b), added subsec. (c).

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 Effec-

tive 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 the Workforce Investment Act of 1998 that includes the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)).

(Added Pub. L. 105–220, title III, § 322, Aug. 7, 1998, 112 Stat. 1087; amended Pub. L. 109–233, title V, § 503(13), June 15, 2006, 120 Stat. 417.)

REFERENCES IN TEXT

The Workforce Investment Act of 1998, referred to in text, 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.

AMENDMENTS

2006—Pub. L. 109–233 substituted ''implementation of the Workforce Investment Act of 1998'' for ''implementation of this Act'' and inserted ''(29 U.S.C. 2822(b))'' before period at end.

[§ 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 and employment service offices 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) ADMINISTRATION AND USE OF AWARDS.—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;

(2) in the case of such an award made to an eligible employee, shall be in addition to the regular pay of the recipient; and

(3) in the case of such an award made to an employment service office, may be used by that employment service office for any purpose.

(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; amended Pub. L. 109–461, title VI, § 603, Dec. 22, 2006, 120 Stat. 3437.)

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.

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109–461, § 603(a)(1), inserted ''and employment service offices'' after ''recognize eligible employees''.

Subsec. (c). Pub. L. 109–461, § 603(b), substituted ''Administration and Use of Awards'' for ''Relationship of Award to Grant Program and Employee Compensation'' as heading.

Subsec. (c)(2). Pub. L. 109–461, § 603(a)(2)(B)(i), substituted ''in the case of such an award made to an eligible employee, shall be'' for ''is''.

Subsec. (c)(3). Pub. L. 109–461, § 603(a)(2)(A), (B)(ii), (C), added par. (3).

§ 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 6304(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; amended Pub. L. 109–233, title IV, § 402(e)(2), June 15, 2006, 120 Stat. 411.)

PRIOR PROVISIONS

A prior 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 prior to repeal by Pub. L. 102–40, title IV, § 401(a)(3), May 7, 1991, 105 Stat. 210. See section 7424 of this title.

AMENDMENTS

2006—Subsec. (a)(2). Pub. L. 109–233 substituted ''section 6304(a)'' for ''section 7723(a)''.

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.''

§ 4114. Credentialing and licensure of veterans: demonstration project

(a) DEMONSTRATION PROJECT AUTHORIZED.—The Assistant Secretary for Veterans' Employment and Training may carry out a demonstration project on credentialing in accordance with this section for the purpose of facilitating the seamless transition of members of the Armed Forces from service on active duty to civilian employment.

(b) IDENTIFICATION OF MILITARY OCCUPATIONAL SPECIALTIES AND ASSOCIATED CREDENTIALS AND LICENSES.—(1) The Assistant Secretary shall select not less than 10 military occupational specialties for purposes of the demonstration project. Each specialty so selected by the Assistant Secretary shall require a skill or set of skills that is required for civilian employment in an industry with high growth or high worker demand.

(2) The Assistant Secretary shall consult with appropriate Federal, State, and industry officials to identify requirements for credentials, certifications, and licenses that require a skill or set of skills required by a military occupational specialty selected under paragraph (1).

(3) The Assistant Secretary shall analyze the requirements identified under paragraph (2) to determine which requirements may be satisfied by the skills, training, or experience acquired by members of the Armed Forces with the military occupational specialties selected under paragraph (1).

(c) ELIMINATION OF BARRIERS TO CREDENTIALING AND LICENSURE.—The Assistant Secretary shall cooperate with appropriate Federal, State, and industry officials to reduce or eliminate any barriers to providing a credential, certification, or license to a veteran who acquired any skill, training, or experience while serving as a member of the Armed Forces with a military occupational specialty selected under subsection (b)(1) that satisfies the Federal and State requirements for the credential, certification, or license.

(d) TASK FORCE.—The Assistant Secretary may establish a task force of individuals with appropriate expertise to provide assistance to the Assistant Secretary in carrying out this section.

(e) CONSULTATION.—In carrying out this section, the Assistant Secretary shall consult with the Secretary of Defense, the Secretary of Veterans Affairs, appropriate Federal and State officials, private-sector employers, labor organizations, and industry trade associations.

(f) CONTRACT AUTHORITY.—For purposes of carrying out any part of the demonstration project under this section, the Assistant Secretary may enter into a contract with a public or private entity with appropriate expertise.

(g) PERIOD OF PROJECT.—The period during which the Assistant Secretary may carry out the demonstration project under this section shall be the period beginning on the date that is 60 days after the date of the enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006 and ending on September 30, 2009.

(h) FUNDING.—The Assistant Secretary may carry out the demonstration project under this

section utilizing unobligated funds that are appropriated in accordance with the authorization set forth in section 4106 of this title.

(Added Pub. L. 109–461, title VI, §604(a)(1), Dec. 22, 2006, 120 Stat. 3437.)

REFERENCES IN TEXT

The date of the enactment of the Veterans Benefits, Health Care, and Information Technology Act of 2006, referred to in subsec. (g), is the date of enactment of Pub. L. 109–461, which was approved Dec. 22, 2006.

PRIOR PROVISIONS

Prior sections 4114 to 4119 were repealed by Pub. L. 102–40, title IV, §401(a)(3), May 7, 1991, 105 Stat. 210.

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.

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 active 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;

(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; or

(D) was discharged or released from active duty by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(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 Regulatory Commission, and the term ''department, agency, or instrumentality in the executive branch'' includes the United States Postal Service and the Postal Regulatory 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; Pub. L. 109–435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242; Pub. L. 110–317, § 6(b), Aug. 29, 2008, 122 Stat. 3528.)

AMENDMENTS

2008—Par. (4)(D). Pub. L. 110–317 added subpar. (D).

2006—Par. (5). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission'' in two places.

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 2008 AMENDMENT

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

EFFECTIVE DATE OF 2002 AMENDMENT

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 pur-

pose 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 6303 of this title, to serve as veterans' representatives at certain educational institutions as provided in section 6305 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; Pub. L. 109–233, title IV, § 402(e)(3), June 15, 2006, 120 Stat. 411.)

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

2006—Subsec. (g). Pub. L. 109–233 substituted ''section 6303'' for ''section 7722'' and ''section 6305'' for ''section 7724''.

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.

DEPARTMENT OF LABOR IMPLEMENTATION OF REGULATIONS FOR PRIORITY OF SERVICE

Pub. L. 109–461, title VI, § 605, Dec. 22, 2006, 120 Stat. 3439, provided that: ''Not later than two years after the date of the enactment of this Act [Dec. 22, 2006], the Secretary of Labor shall prescribe regulations to implement section 4215 of title 38, United States Code.''

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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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

2008—Pub. L. 110–389, title III, §§ 311(f)(2), 313(b), Oct. 10, 2008, 122 Stat. 4164, 4167, added items 4327 and 4335.

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 demonstration 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 Regulatory 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; Pub. L. 109–435, title VI, § 604(f), Dec. 20, 2006, 120 Stat. 3242.)

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

2006—Par. (5). Pub. L. 109–435 substituted ''Postal Regulatory Commission'' for ''Postal Rate Commission''.

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. 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

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 entered 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 fu-

neral 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, or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title, 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, or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title, 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 or eligibility. 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.

(3) In the case of a person whose coverage under a health plan is terminated by reason of the person having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title but who subsequently does not commence a period of active duty under the order to active duty that established such eligibility because the order is canceled before such active duty commences, the provisions of paragraph (1) relating to any exclusion or waiting period in connection with the reinstatement of coverage under a health plan shall apply to such person's continued employment, upon the termination of such eligibility for medical and dental care under chapter 55 of title 10 that is incident to the cancellation of such order, in the same manner as if the person had become reemployed upon such termination of eligibility.

(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; Pub. L. 109–233, title III, § 303, June 15, 2006, 120 Stat. 406.)

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

2006—Subsec. (a)(1). Pub. L. 109–233, § 303(a), inserted ''or such person becomes eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,'' after ''by reason of service in the uniformed services,''.

Subsec. (b)(1). Pub. L. 109–233, § 303(b)(1), inserted ''or by reason of the person's having become eligible for medical and dental care under chapter 55 of title 10 by reason of subsection (d) of section 1074 of that title,'' after ''by reason of service in the uniformed services,'' and ''or eligibility'' after ''such service''.

Subsec. (b)(3). Pub. L. 109–233, § 303(b)(2), added par. (3).

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)(1) Not later than five days after the Secretary receives a complaint submitted by a person under subsection (a), the Secretary shall notify such person in writing of his or her rights with respect to such complaint under this section and section 4323 or 4324, as the case may be.

(2) 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 in writing 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) Any action required by subsections (d) and (e) with respect to a complaint submitted by a person to the Secretary under subsection (a) shall be completed by the Secretary not later than 90 days after receipt of such complaint.

(g) 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; Pub. L. 110–389, title III, § 311(a)–(c), Oct. 10, 2008, 122 Stat. 4162.)

PRIOR PROVISIONS

A prior section 4322 was renumbered section 7622 of this title.

AMENDMENTS

2008—Subsec. (c). Pub. L. 110–389, § 311(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "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."

Subsec. (e). Pub. L. 110–389, § 311(b), inserted "in writing" after "submitted the complaint" in introductory provisions.

Subsecs. (f), (g). Pub. L. 110–389, § 311(c), added subsec. (f) and redesignated former subsec. (f) as (g).

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. Not later than 60 days after the Secretary receives such a request with respect to a complaint, the Secretary shall 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) Not later than 60 days after the date the Attorney General receives a referral under paragraph (1), the Attorney General shall—

(A) make a decision whether to appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted; and

(B) notify such person in writing of such decision.

(3) 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 shall use, in any case in which the court determines it is appropriate, 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) 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; Pub. L. 110–389, title III, §§ 311(d)(1), (e)(1), (f)(3), 315, Oct. 10, 2008, 122 Stat. 4162–4164, 4167.)

PRIOR PROVISIONS

A prior section 4323 was renumbered section 7623 of this title.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–389, § 311(d)(1), inserted ''Not later than 60 days after the Secretary receives such a request with respect to a complaint, the Secretary shall refer the complaint to the Attorney General.'' after ''to the Attorney General.''

Subsec. (a)(2), (3). Pub. L. 110–389, § 311(e)(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (e). Pub. L. 110–389, § 315, substituted ''shall use, in any case in which the court determines it is appropriate,'' for ''may use''.

Subsecs. (i), (j). Pub. L. 110–389, § 311(f)(3), redesignated subsec. (j) as (i) and struck out former subsec. (i) which read as follows: ''INAPPLICABILITY OF STATE STATUTE OF LIMITATIONS.—No State statute of limitations shall apply to any proceeding under this chapter.''

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. Not later than 60 days after the date the Secretary receives such a request, 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) Not later than 60 days after the date the Special Counsel receives a referral under paragraph (1), the Special Counsel shall—

(i) make a decision whether to represent a person before the Merit Systems Protection Board under subparagraph (A); and

(ii) notify such person in writing of such 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; Pub. L. 110–389, title III, § 311(d)(2), (e)(2), Oct. 10, 2008, 122 Stat. 4163.)

PRIOR PROVISIONS

A prior section 4324 was renumbered section 7624 of this title.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110–389, § 311(d)(2), substituted ''Not later than 60 days after the date the Secretary receives such a request, the Secretary shall refer'' for ''The Secretary shall refer''.

Subsec. (a)(2)(B). Pub. L. 110–389, § 311(e)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B)

read as follows: ''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.''

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.

§ 4327. Noncompliance of Federal officials with deadlines; inapplicability of statutes of limitations

(a) EFFECT OF NONCOMPLIANCE OF FEDERAL OFFICIALS WITH DEADLINES.—(1) The inability of the Secretary, the Attorney General, or the Special Counsel to comply with a deadline applicable to such official under section 4322, 4323, or 4324 of this title—

(A) shall not affect the authority of the Attorney General or the Special Counsel to represent and file an action or submit a complaint on behalf of a person under section 4323 or 4324 of this title;

(B) shall not affect the right of a person—

(i) to commence an action under section 4323 of this title;

(ii) to submit a complaint under section 4324 of this title; or

(iii) to obtain any type of assistance or relief authorized by this chapter;

(C) shall not deprive a Federal court, the Merit Systems Protection Board, or a State court of jurisdiction over an action or complaint filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title; and

(D) shall not constitute a defense, including a statute of limitations period, that any employer (including a State, a private employer, or a Federal executive agency) or the Office of Personnel Management may raise in an action filed by the Attorney General, the Special Counsel, or a person under section 4323 or 4324 of this title.

(2) If the Secretary, the Attorney General, or the Special Counsel is unable to meet a deadline applicable to such official in section 4322(f), 4323(a)(1), 4323(a)(2), 4324(a)(1), or 4324(a)(2)(B) of this title, and the person agrees to an extension of time, the Secretary, the Attorney General, or the Special Counsel, as the case may be, shall complete the required action within the additional period of time agreed to by the person.

(b) INAPPLICABILITY OF STATUTES OF LIMITATIONS.—If any person seeks to file a complaint or claim with the Secretary, the Merit Systems Protection Board, or a Federal or State court under this chapter alleging a violation of this chapter, there shall be no limit on the period for filing the complaint or claim.

(Added Pub. L. 110–389, title III, § 311(f)(1), Oct. 10, 2008, 122 Stat. 4163.)

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 Secretary 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 2302(a)(2)(C)(ii) of title 5.

(Added Pub. L. 103–353, § 2(a), Oct. 13, 1994, 108 Stat. 3168; amended Pub. L. 109–233, title V, § 503(14), June 15, 2006, 120 Stat. 417.)

PRIOR PROVISIONS

A prior section 4331 was renumbered section 7631 of this title.

AMENDMENTS

2006—Subsec. (b)(2)(C). Pub. L. 109–233 substituted ''section 2302(a)(2)(C)(ii)'' for ''section 2303(a)(2)(C)(ii)''.

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

(a) ANNUAL REPORT BY SECRETARY.—The Secretary shall, after consultation with the Attorney General and the Special Counsel referred to in section 4324(a)(1), transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the year before the year in which such report is transmitted as follows:

(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 reviewed by the Secretary of Defense under the National Committee for Employer Support of the Guard and Re-

serve of the Department of Defense during the fiscal year for which the report is made.

(3) The number of cases referred to the Attorney General or the Special Counsel pursuant to section 4323 or 4324, respectively, during such fiscal year and the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal year.

(4) The number of complaints filed by the Attorney General pursuant to section 4323 during such fiscal year.

(5) The number of cases reviewed by the Secretary and the Secretary of Defense through the National Committee for Employer Support of the Guard and Reserve of the Department of Defense that involve the same person.

(6) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5)—

(A) the number of such cases that involve a disability-related issue; and

(B) the number of such cases that involve a person who has a service-connected disability.

(7) The nature and status of each case reported on pursuant to paragraph (1), (2), (3), (4), or (5).

(8) With respect to the cases reported on pursuant to paragraphs (1), (2), (3), (4), and (5) the number of such cases that involve persons with different occupations or persons seeking different occupations, as designated by the Standard Occupational Classification System.

(9) An indication of whether there are any apparent patterns of violation of the provisions of this chapter, together with an explanation thereof.

(10) 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.

(b) QUARTERLY REPORTS.—

(1) QUARTERLY REPORT BY SECRETARY.—Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to Congress, the Secretary of Defense, the Attorney General, and the Special Counsel a report setting forth, for the previous full quarter, the following:

(A) The number of cases for which the Secretary did not meet the requirements of section 4322(f) of this title.

(B) The number of cases for which the Secretary received a request for a referral under paragraph (1) of section 4323(a) of this title but did not make such referral within the time period required by such paragraph.

(2) QUARTERLY REPORT BY ATTORNEY GENERAL.—Not later than 30 days after the end of each fiscal quarter, the Attorney General shall submit to Congress, the Secretary, the Secretary of Defense, and the Special Counsel a report setting forth, for the previous full quarter, the number of cases for which the Attorney General received a referral under paragraph (1) of section 4323(a) of this title but did not meet the requirements of paragraph (2) of section 4323(a) of this title for such referral.

(3) QUARTERLY REPORT BY SPECIAL COUNSEL.—Not later than 30 days after the end of each fiscal quarter, the Special Counsel shall submit to Congress, the Secretary, the Secretary of Defense, and the Attorney General a report setting forth, for the previous full quarter, the number of cases for which the Special Counsel received a referral under paragraph (1) of section 4324(a) of this title but did not meet the requirements of paragraph (2)(B) of section 4324(a) of this title for such referral.

(c) UNIFORM CATEGORIZATION OF DATA.—The Secretary shall coordinate with the Secretary of Defense, the Attorney General, and the Special Counsel to ensure that—

(1) the information in the reports required by this section is categorized in a uniform way; and

(2) the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel each have electronic access to the case files reviewed under this chapter by the Secretary, the Secretary of Defense, the Attorney General, and the Special Counsel with due regard for the provisions of section 552a of title 5.

(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; Pub. L. 110–181, div. A, title V, § 595, Jan. 28, 2008, 122 Stat. 139; Pub. L. 110–389, title III, § 312(a)–(d), Oct. 10, 2008, 122 Stat. 4164, 4165.)

PRIOR PROVISIONS

A prior section 4332 was renumbered section 7632 of this title.

AMENDMENTS

2008—Pub. L. 110–389, § 312(a), (b)(1), designated existing provisions as subsec. (a), inserted heading, and substituted ", transmit to Congress not later than July 1 each year a report on matters for the fiscal year ending in the year before the year in which such report is transmitted as follows:" for "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:" in introductory provisions.

Pub. L. 110–181 added par. (2), redesignated former pars. (2) to (6) as (3) to (7), respectively, and in par. (5) substituted "(2), (3), or (4)" for "(2), or (3)".

Subsec. (a)(3). Pub. L. 110–389, § 312(b)(2), inserted "and the number of actions initiated by the Office of Special Counsel before the Merit Systems Protection Board pursuant to section 4324 during such fiscal year" before period at end.

Subsec. (a)(5) to (10). Pub. L. 110–389, § 312(b)(3)–(7), added pars. (5), (6), and (8), redesignated former pars. (5), (6), and (7) as (7), (9), and (10), respectively, and in par. (7), substituted "(4), or (5)" for "or (4)".

Subsecs. (b), (c). Pub. L. 110–389, § 312(c), (d), added subsecs. (b) and (c).

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 OF 2008 AMENDMENT

Pub. L. 110–389, title III, § 312(f), Oct. 10, 2008, 122 Stat. 4166, provided that: "The amendments made by this section [amending this section] shall apply with respect to each report required under section 4332 of title

38, United States Code (as amended by this section), after the date of the enactment of this Act [Oct. 10, 2008].''

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

A prior section 4334 was renumbered section 7634 of this title.

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).''

§ 4335. Training for Federal executive agency human resources personnel on employment and reemployment rights and limitations

(a) TRAINING REQUIRED.—The head of each Federal executive agency shall provide training for the human resources personnel of such agency on the following:

(1) The rights, benefits, and obligations of members of the uniformed services under this chapter.

(2) The application and administration of the requirements of this chapter by such agency with respect to such members.

(b) CONSULTATION.—The training provided under subsection (a) shall be developed and provided in consultation with the Director of the Office of Personnel Management.

(c) FREQUENCY.—The training under subsection (a) shall be provided with such frequency as the Director of the Office of Personnel Management shall specify in order to ensure that the human resources personnel of Federal executive agencies are kept fully and currently informed of the matters covered by the training.

(d) HUMAN RESOURCES PERSONNEL DEFINED.—In this section, the term ''human resources personnel'', in the case of a Federal executive agency, means any personnel of the agency who are authorized to recommend, take, or approve any personnel action that is subject to the requirements of this chapter with respect to employees of the agency.

(Added Pub. L. 110–389, title III, § 313(a), Oct. 10, 2008, 122 Stat. 4166.)

PRIOR PROVISIONS

Prior sections 4335, 4336, and 4351 to 4355 were renumbered sections 7635, 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. 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.

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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AMENDMENTS

2006—Pub. L. 109–233, title IV, § 402(d)(3), June 15, 2006, 120 Stat. 411, added item for chapter 63.

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

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5100. Definition of ''claimant''.
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SUBCHAPTER II—EFFECTIVE DATES

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5125. Acceptance of reports of private physician examinations.
5126. Benefits not to be denied based on lack of mailing address.

AMENDMENTS

2008—Pub. L. 110–389, title II, § 212(b), Oct. 10, 2008, 122 Stat. 4151, added item 5121A.

Pub. L. 110–387, title IX, § 901(a)(5), Oct. 10, 2008, 122 Stat. 4142, substituted ''death of a beneficiary'' for ''death of beneficiary'' in item 5121.

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.