

withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

(b) SUMMARY OF RECORDS WITHHELD.—When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2959.)

§ 14905. Officer considered for removal: retirement or discharge

(a) VOLUNTARY RETIREMENT OR DISCHARGE.—At any time during proceedings under this chapter with respect to the removal of an officer from an active status, the Secretary of the military department concerned may grant a request by the officer—

- (1) for voluntary retirement, if the officer is qualified for retirement;
- (2) for transfer to the Retired Reserve if the officer has completed the years of service required for eligibility for retired pay under chapter 1223 of this title and is otherwise eligible for transfer to the Retired Reserve; or
- (3) for discharge in accordance with subsection (b)(3).

(b) REQUIRED RETIREMENT OR DISCHARGE.—An officer removed from an active status under section 14903 of this title shall—

- (1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under that provision;
- (2) if eligible for transfer to the Retired Reserve and has completed the years of service required for retired pay under chapter 1223 of this title, be transferred to the Retired Reserve; and
- (3) if ineligible for retirement or transfer to the Retired Reserve under paragraph (1) or (2) on the date of such removal—
 - (A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 14902 of this title; or
 - (B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 14902 of this title.

(c) SEPARATION PAY.—An officer who is discharged under subsection (b)(3) is entitled, if eligible therefor, to separation pay under section 1174(c) of this title.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2959.)

§ 14906. Officers eligible to serve on boards

(a) COMPOSITION OF BOARDS.—Each board convened under this chapter shall consist of officers appointed as follows:

- (1) Each member of the board shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

(2) Each member of the board shall hold a grade above major or lieutenant commander, except that at least one member of the board shall hold a grade above lieutenant colonel or commander.

(3) Each member of the board shall be senior in grade to any officer to be considered by the board.

(b) LIMITATION.—A person may not be a member of more than one board convened under this chapter to consider the same officer.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2960; amended Pub. L. 106-65, div. A, title V, §504(b), Oct. 5, 1999, 113 Stat. 591.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-65 amended heading and text generally. Prior to amendment, text read as follows:

“(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention in an active status.

“(2) An officer may not serve on a board under this chapter unless the officer holds a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by the board.”

§ 14907. Army National Guard of the United States and Air National Guard of the United States: discharge and withdrawal of Federal recognition of officers absent without leave

(a) AUTHORITY TO WITHDRAW FEDERAL RECOGNITION.—If an officer of the Army National Guard of the United States or the Air National Guard of the United States has been absent without leave for three months, the Secretary of the Army or the Secretary of the Air Force, as appropriate, may—

- (1) terminate the reserve appointment of the officer; and
- (2) withdraw the officer’s Federal recognition as an officer of the National Guard.

(b) DISCHARGE FROM RESERVE APPOINTMENT.—An officer of the Army National Guard of the United States or the Air National Guard of the United States whose Federal recognition as an officer of the National Guard is withdrawn under section 323(b) of title 32 shall be discharged from the officer’s appointment as a reserve officer of the Army or the Air Force, as the case may be.

(Added Pub. L. 103-337, div. A, title XVI, §1611, Oct. 5, 1994, 108 Stat. 2960.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in sections 3820(a), (b) and 8820 of this title, prior to repeal by Pub. L. 103-337, §1629(a)(2), (c)(2).

PART IV—TRAINING FOR RESERVE COMPONENTS AND EDUCATIONAL ASSISTANCE PROGRAMS

Chap.		Sec.
1601.	Training Generally. [No present sections]	
1606.	Educational Assistance for Members of the Selected Reserve	16131
1607.	Educational Assistance for Reserve Component Members Supporting Contingency Operations and Certain Other Operations	16161

Chap.		Sec.
1608.	Health Professions Stipend Program	16201
1609.	Education Loan Repayment Programs ..	16301
1611.	Other Educational Assistance Programs	16401

AMENDMENTS

2004—Pub. L. 108-375, div. A, title V, § 527(c), Oct. 28, 2004, 118 Stat. 1894, added item for chapter 1607.

1999—Pub. L. 106-65, div. A, title V, § 551(a)(2), Oct. 5, 1999, 113 Stat. 614, added item for chapter 1611.

1996—Pub. L. 104-106, div. A, title XV, § 1501(b)(1), Feb. 10, 1996, 110 Stat. 495, substituted “Repayment Programs” for “Repayments” in item for chapter 1609.

CHAPTER 1601—TRAINING GENERALLY

[No present sections]

CHAPTER 1606—EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE

Sec.	
16131.	Educational assistance program: establishment; amount.
16131a.	Accelerated payment of educational assistance.
16132.	Eligibility for educational assistance.
16132a.	Authority to transfer unused education benefits to family members.
16133.	Time limitation for use of entitlement.
16134.	Termination of assistance.
16135.	Failure to participate satisfactorily; penalties.
16136.	Administration of program.
[16137.]	Repealed.]

AMENDMENTS

2011—Pub. L. 112-81, div. A, title X, § 1061(29)(B), Dec. 31, 2011, 125 Stat. 1584, struck out item 16137 “Biennial report to Congress”.

2008—Pub. L. 110-252, title V, § 5006(e)(2), June 30, 2008, 122 Stat. 2386, added item 16132a.

Pub. L. 110-181, div. A, title V, § 528(a)(2), Jan. 28, 2008, 122 Stat. 107, added item 16131a.

1999—Pub. L. 106-65, div. A, title V, § 548(b), Oct. 5, 1999, 113 Stat. 609, substituted “Biennial report to Congress” for “Reports to Congress” in item 16137.

1996—Pub. L. 104-106, div. A, title XV, § 1501(b)(33), Feb. 10, 1996, 110 Stat. 498, substituted “limitation” for “limitations” in item 16133.

§ 16131. Educational assistance program: establishment; amount

(a) To encourage membership in units of the Selected Reserve of the Ready Reserve, the Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Homeland Security, under regulations prescribed by the Secretary with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program to provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned who agree to remain members of the Selected Reserve for a period of not less than six years.

(b)(1) Except as provided in subsections (d) through (f), each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, through the Secretary of Veterans Affairs, to each person entitled to educational assistance under this chapter who is pursuing a program of education of an educational assistance allowance at the following rates:

(A) \$251 (as increased from time to time under paragraph (2)) per month for each month of full-time pursuit of a program of education;

(B) \$188 (as increased from time to time under paragraph (2)) per month for each month of three-quarter-time pursuit of a program of education;

(C) \$125 (as increased from time to time under paragraph (2)) per month for each month of half-time pursuit of a program of education; and

(D) an appropriately reduced rate, as determined under regulations which the Secretary of Veterans Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.

(2) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subparagraphs (A), (B), and (C) of paragraph (1) equal to the percentage by which—

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

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

(c)(1) Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38.

(2) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any person under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, 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 title 38 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 the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—

(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of this title; 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), the individual's 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 title 38 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).

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

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

(B) for each of the second six months of the person'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 person's pursuit of such program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which any person pursuing a program of education consisting of a program of apprenticeship or other on-the-job training fails to complete 120 hours of training, the amount of the monthly educational assistance allowance payable under this chapter to the person shall be limited to the same proportion of the applicable full-time rate as the number of hours worked during such month, rounded to the nearest 8 hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B), for each month that such person is paid a monthly educational assistance allowance under this chapter, the person'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);

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

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

(B) Any such charge to the entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2).

(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to a person 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 person.

(B) For purposes of subparagraph (A), 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 person for such course or courses.

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

(2) In each case in which the amount of educational assistance is determined under paragraph (1), the period of entitlement of the person concerned shall be charged with one month for each amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned which is paid to the individual as an educational assistance allowance.

(f)(1) Each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 16136(c) 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 period of entitlement of an individual pursuing a program of education described in paragraph (1) shall be charged with one month for each amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned which is paid to that individual as an educational assistance allowance for such program.

(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.

(g)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—

(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

(ii) 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, the program of education.

(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.

(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this

paragraph may not exceed \$100 for any month, nor aggregate more than \$1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.

(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—

(i) the individualized tutorial assistance is essential to correct a deficiency of the person 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;

(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

(3)(A) A person'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 person under this subsection in excess of \$600.

(B) A person'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 person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(h) A program of education in a course of instruction beyond the baccalaureate degree level shall be provided under this chapter, subject to the availability of appropriations.

(i)(1) In the case of a person 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 rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under subparagraphs (A) through (D) of subsection (b)(1) as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed \$350 per month.

(2) In the case of a person 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, who is eligible for educational benefits under chapter 30 (other than section 3012) of title 38 and who meets the eligibility criteria specified in subparagraphs (A) and (B) of section 16132(a)(1) of this title, the Secretary concerned may increase the rate of the educational assistance allowance applicable to that person to such rate in excess of the rate prescribed under section 3015 of title 38 as the Secretary of Defense considers appropriate, but the amount of any such increase may not exceed \$350 per month.

(3) The authority provided by paragraphs (1) and (2) shall be exercised by the Secretaries concerned under regulations prescribed by the Secretary of Defense.

(j)(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 title 38 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, but for paragraph (1), such individual would otherwise be paid under subsection (b).

(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. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 328, §2131; amended Pub. L. 96-107, title IV, §402(a), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96-342, title IX, §906(a)(1), Sept. 8, 1980, 94 Stat. 1117; Pub. L. 96-513, title V, §511(68), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2565; Pub. L. 100-689, title I, §§110(a), 111(b)(1), Nov. 18, 1988, 102 Stat. 4170, 4172; Pub. L. 101-189, div. A, title VI, §§642(a), (b), 645(a)(1), (b)(1), Nov. 29, 1989, 103 Stat. 1456, 1458; Pub. L. 101-237, title IV, §422(b)(2), Dec. 18, 1989, 103 Stat. 2089; Pub. L. 102-25, title III, §337(b), Apr. 6, 1991, 105 Stat. 90; Pub. L. 102-127, §2(d), Oct. 10, 1991, 105 Stat. 621; Pub. L. 102-568, title III, §§301(b), (d), 310(b), 318, 320(a)(1), Oct. 29, 1992, 106 Stat. 4326, 4330, 4334, 4335; Pub. L. 103-66, title XII, §12009(b), Aug. 10, 1993, 107 Stat. 416; Pub. L. 103-160, div. A, title V, §518, Nov. 30, 1993, 107 Stat. 1651; renumbered §16131 and amended Pub. L. 103-337, div. A, title XVI, §1663(b)(2), (3), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104-106, div. A, title X, §1076, Feb. 10, 1996, 110 Stat. 450; Pub. L. 104-275, title I, §105(d), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 105-85, div. A, title V, §553(a), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 105-178, title VIII, §8203(b)(1)-(3), June 9, 1998, 112 Stat. 493, 494; Pub. L. 106-65, div. A, title X, §1066(a)(33), Oct. 5, 1999, 113 Stat. 772; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 109-163, div. A, title V, §539(a), Jan. 6, 2006, 119 Stat. 3250.)

AMENDMENTS

2006—Subsec. (j). Pub. L. 109-163 added subsec. (j).

2002—Subsec. (a). Pub. L. 107-296 substituted "of Homeland Security" for "of Transportation".

1999—Subsec. (b)(1). Pub. L. 106-65 inserted "in" after "Except as provided" in introductory provisions.

1998—Subsec. (b)(1). Pub. L. 105-178, §8203(b)(3), struck out "in paragraph (2) and" after "Except as provided" in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 105-178, §8203(b)(1)(A), substituted "\$251 (as increased from time to time under paragraph (2))" for "\$190".

Subsec. (b)(1)(B). Pub. L. 105-178, §8203(b)(1)(B), substituted "\$188 (as increased from time to time under paragraph (2))" for "\$143".

Subsec. (b)(1)(C). Pub. L. 105-178, §8203(b)(1)(C), substituted "\$125 (as increased from time to time under paragraph (2))" for "\$95".

Subsec. (b)(2). Pub. L. 105-178, § 8203(b)(2), in introductory provisions, substituted “, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the rates payable under subparagraphs (A), (B), and (C) of paragraph (1)” for “beginning on or after October 1, 1994, the Secretary shall continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under this paragraph for the previous fiscal year and shall provide, for any such fiscal year, a percentage increase in such rates”.

1997—Subsec. (c)(3)(B)(i). Pub. L. 105-85 struck out “, in connection with the Persian Gulf War,” after “being ordered”.

1996—Subsec. (b)(1). Pub. L. 104-275, § 105(d)(2), substituted “(f)” for “(g)”.

Subsecs. (e) to (i). Pub. L. 104-275, § 105(d)(1), redesignated subsecs. (f) to (j) as (e) to (i), respectively, and struck out former subsec. (e) which read as follows:

“(e)(1) The amount of the monthly educational assistance allowance payable to a person pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such person under this chapter.

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

Subsec. (j). Pub. L. 104-275, § 105(d)(1), redesignated subsec. (j) as (i).

Pub. L. 104-106 added subsec. (j).

1994—Pub. L. 103-337, § 1663(b)(2), renumbered section 2131 of this title as this section.

Subsec. (c)(3)(B)(i). Pub. L. 103-337, § 1663(b)(3)(A), substituted “12301(a), 12301(d), 12301(g), 12302, or 12304” for “672(a), (d), or (g), 673, or 673b”.

Subsec. (g)(1). Pub. L. 103-337, § 1663(b)(3)(B), substituted “16136(c)” for “2136(c)”.

1993—Subsec. (b)(2). Pub. L. 103-66 struck out subpar. (A), struck out subpar. (B) designation before “With respect to”, redesignated former cls. (i) and (ii) as subpars. (A) and (B), respectively, and in subpar. (B) substituted “subparagraph (A)” for “clause (i)”. Prior to amendment, subpar. (A) 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 subparagraphs (A), (B), and (C) of paragraph (1) 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.”

Subsec. (c)(1). Pub. L. 103-160, § 518(1), struck out “other than a program of education in a course of instruction beyond the baccalaureate degree level” after “title 38”.

Subsec. (i). Pub. L. 103-160, § 518(2), added subsec. (i).

1992—Subsec. (b)(1). Pub. L. 102-568, § 301(b), substituted “\$190” for “\$140” in subpar. (A), “\$143” for “\$105” in subpar. (B), and “\$95” for “\$70” in subpar. (C).

Subsec. (b)(2)(A). Pub. L. 102-568, § 301(d)(1), (2), redesignated subpar. (B) as (A), substituted “shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)” for “may continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under subparagraph (A) of this paragraph and may provide a percentage increase in such rates”, and struck out former subpar. (A) which read as follows: “During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) shall be \$170, \$128, and \$85, respectively.”

Subsec. (b)(2)(B), (C). Pub. L. 102-568, § 301(d)(3), redesignated subpar. (C) as (B) and substituted “shall continue” for “may continue” and “shall provide” for “may provide” in introductory provisions. Former subpar. (B) redesignated (A).

Subsec. (c)(2). Pub. L. 102-568, § 320(a)(1)(A), substituted “section 3695 of title 38” for “section 1795 of title 38”.

Subsec. (c)(3)(B)(ii). Pub. L. 102-568, § 320(a)(1)(B), substituted “, the individual’s” for “of this subparagraph, his or her”.

Subsec. (c)(3)(C). Pub. L. 102-568, § 320(a)(1)(C), struck out “of this paragraph” after “subparagraph (B)(ii)”.

Subsec. (g)(1). Pub. L. 102-568, § 310(b)(1), struck out “(other than tuition and fees charged for or attributable to solo flying hours)” after “tuition and fees”.

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

Subsec. (h). Pub. L. 102-568, § 318, added subsec. (h).

1991—Subsec. (b). Pub. L. 102-25, § 337(b)(1), designated existing provisions as par. (1) and substituted “Except as provided in paragraph (2) and” for “Except as provided in”, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2).

Subsec. (c)(3). Pub. L. 102-127 added par. (3).

Subsecs. (f)(2), (g)(3). Pub. L. 102-25, § 337(b)(2), (3), substituted “amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned” for “\$140”.

1989—Subsec. (b). Pub. L. 101-237, § 422(b)(2)(A), in introductory provisions, substituted “subsections (d) through (g)” for “subsections (d) through (f)”.

Pub. L. 101-189, § 645(b)(1), in introductory provisions, substituted “of an educational assistance allowance” for “and educational assistance allowance”.

Pub. L. 101-189, § 642(b)(1), in introductory provisions, substituted “Except as provided in subsections (d) through (f), each” for “Each” and inserted “, through the Secretary of Veterans Affairs,” after “Secretary concerned”.

Subsec. (b)(4). Pub. L. 101-189, § 645(a)(1), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.

Subsec. (c)(1). Pub. L. 101-189, § 642(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Educational assistance may only be provided under this chapter for pursuit of a program of education at an institution of higher learning and may not be provided to a person after the person has completed a course of instruction required for the award of a baccalaureate degree or the equivalent evidence of completion of study.”

Subsecs. (d) to (f). Pub. L. 101-189, § 642(b)(2), added subsecs. (d) to (f).

Subsec. (g). Pub. L. 101-237, § 422(b)(2)(B), added subsec. (g).

1988—Subsec. (b)(4). Pub. L. 100-689, § 110(a), added par. (4).

Subsec. (c)(2). Pub. L. 100-689, § 111(b)(1), inserted “(or the equivalent thereof in part-time educational assistance)” before period at end.

1984—Pub. L. 98-525 amended section generally, substituting a schedule of payments at stated monthly rates for full-time, three-quarter-time, and half-time pursuit of an education program for former provisions which had set a maximum for any one member of \$1,000 for any twelve-month period and \$4,000 for the total assistance to any one member.

1980—Subsec. (a). Pub. L. 96-513, § 511(68)(A), substituted “armed forces” for “armed force”.

Subsec. (b)(2). Pub. L. 96-513, § 511(68)(B), inserted “of this title” after “2132”.

Subsec. (c). Pub. L. 96-342 substituted “\$1,000” for “\$500” and “\$4,000” for “\$2,000”.

Subsec. (d). Pub. L. 96-513, § 511(68)(C), substituted “Secretary of Education” for “Commissioner of Education, Department of Health, Education, and Welfare”.

1979—Subsec. (b)(1). Pub. L. 96-107 substituted “100 percent” for “50 percent”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title V, § 539(c), Jan. 6, 2006, 119 Stat. 3250, provided that: “The amendments made by this section [amending this section and section 16162 of

this title] shall apply to a licensing or certification test administered on or after the date of the enactment of this Act [Jan. 6, 2006].”

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 this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-178, title VIII, §8203(b)(4), June 9, 1998, 112 Stat. 494, 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 paragraph (2) of section 16131(b) of title 10, United States Code, as amended by paragraph (2), for fiscal year 1999.”

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 this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 301(e) of Pub. L. 102-568 provided that:
“(1) The amendments made by this section [amending this section and section 3015 of Title 38, Veterans’ Benefits] shall take effect on April 1, 1993.
“(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 [now 1606] of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms ‘Montgomery GI bill rate increase’ and ‘title III benefit’ have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 [Pub. L. 102-25] (105 Stat. 99).”

Section 310(d) of Pub. L. 102-568 provided that: “The amendments made by this section [amending this section and sections 3032 and 3231 of Title 38] shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 [now 1606] of title 10, United States Code, after September 30, 1992.”

EFFECTIVE DATE OF 1989 AMENDMENTS

Section 422(d) of Pub. L. 101-237 provided that: “The amendments made by this section [amending this section, section 2136 [now 16136] of this title, and sections 1432 [now 3032] and 1434 [now 3034] of Title 38, Veterans’ Benefits] shall take effect on September 30, 1990.”

Section 642(d) of Pub. L. 101-189 provided that: “The amendments made by this section [amending this section and section 2136 [now 16136] of this title] shall apply with respect to any person who after September 30, 1990, meets the requirements set forth in subparagraph (A) or (B) of section 2132(a)(1) [now 16132(a)(1)(A), (B)] of title 10, United States Code.”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 705(b) of Pub. L. 98-525 provided that: “The amendments made by this section [amending this chapter] shall take effect on July 1, 1985, and shall apply only to members of the Armed Forces who qualify for educational assistance under chapter 106 of title 10, United States Code, as amended by subsection (a), on or after such date.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

Section 906(a)(2) of Pub. L. 96-342 provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1980.”

EFFECTIVE DATE OF 1979 AMENDMENT

Section 402(c) of Pub. L. 96-107 provided that: “The amendments made by this section [amending sections 2131 and 2133 [now 16131 and 16133] of this title] shall apply only to individuals enlisting in the Reserves after September 30, 1979.”

INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING APRENTICESHIP OR ON-JOB TRAINING; SELECTED RESERVE MONTGOMERY GI BILL

Pub. L. 108-454, title I, §103(d), Dec. 10, 2004, 118 Stat. 3601, provided that: “For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (d)(1) of section 16131 of title 10, 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’.”

1995 COST-OF-LIVING ADJUSTMENT IN RATES OF EDUCATIONAL ASSISTANCE

Pub. L. 103-66, title XII, §12009(c), Aug. 10, 1993, 107 Stat. 416, provided that the fiscal year 1995 cost-of-living adjustments in the rates of educational assistance payable under chapter 30 of Title 38, Veterans’ Benefits, and this chapter were to be the percentage equal to 50 percent of the percentage by which such assistance would be increased under section 3015(g) of Title 38 and subsec. (b)(2) of this section but for section 12009 of Pub. L. 103-66.

§ 16131a. Accelerated payment of educational assistance

(a) The educational assistance allowance payable under section 16131 of this title with respect to an eligible person described in subsection (b) may, upon the election of such eligible person, be paid on an accelerated basis in accordance with this section.

(b) An eligible person described in this subsection is a person entitled to educational assistance under this chapter who is—

(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); 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 educational assistance allowance otherwise payable with respect to the person under section 16131 of this title.

(c)(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible person 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 educational assistance allowance to which the person remains entitled under this chapter at the time of the payment.

(2)(A) In this subsection, except as provided in subparagraph (B), 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 of Veterans Affairs) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

(i) 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.

(ii) 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.

(B) In this subsection, the term “established charges” does not include any fees or payments attributable to the purchase of a vehicle.

(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible person under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

(d) An accelerated payment of educational assistance allowance made with respect to an eligible person 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 of Veterans Affairs receives a certification from the educational institution regarding—

- (1) the person’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 educational assistance allowance made with respect to an eligible person under this section, the person’s entitlement to 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 educational assistance allowance otherwise payable with respect to the person under section 16131 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 educational assistance allowance otherwise payable with respect to an eligible person under section 16131 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the person’s entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regula-

tions prescribed by the Secretary of Veterans Affairs.

(f) The Secretary of Veterans Affairs 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 of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

(g) The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed \$4,000,000.

(Added Pub. L. 110–181, div. A, title V, § 528(a)(1), Jan. 28, 2008, 122 Stat. 105.)

EFFECTIVE DATE

Pub. L. 110–181, div. A, title V, § 528(a)(3), Jan. 28, 2008, 122 Stat. 107, provided that: “The amendments made by this subsection [enacting this section] shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date.”

§ 16132. Eligibility for educational assistance

(a) A person who—

(1) after June 30, 1985—

(A) enlists, reenlists, or extends an enlistment as a Reserve for service in the Selected Reserve for a period of not less than six years; or

(B) is appointed as, or is serving as, a reserve officer and agrees to serve in the Selected Reserve for a period of not less than six years in addition to any other period of obligated service in the Selected Reserve to which the person may be subject; and

(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or an equivalency certificate);

is entitled to educational assistance under section 16131 of this title.

(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member.

(c) Each person who becomes entitled to educational assistance under subsection (a) shall at the time the person becomes so entitled be given a statement in writing summarizing the provisions of this chapter and stating clearly and prominently the substance of sections 16134 and 16135 of this title as such sections may apply to the person. At the request of the Secretary of Veterans Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to that Secretary.

(d) A person who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter 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. However, a person may not receive credit under the program established by this chapter for service (in any grade) on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components in a position which is included in the end strength required to be authorized each year by section 115(a)(1)(B) of this title.

(Added Pub. L. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 329, §2132; amended Pub. L. 95-485, title IV, §402(a), Oct. 20, 1978, 92 Stat. 1613; Pub. L. 96-513, title V, §511(69), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2565; Pub. L. 100-48, §4, June 1, 1987, 101 Stat. 331; Pub. L. 100-689, title I, §§110(b), 111(b)(2)-(4), Nov. 18, 1988, 102 Stat. 4170, 4173; Pub. L. 101-189, div. A, title VI, §§643(a), 645(a), (b)(2), Nov. 29, 1989, 103 Stat. 1458; Pub. L. 102-25, title VII, §701(f)(6), Apr. 6, 1991, 105 Stat. 115; renumbered §16132 and amended Pub. L. 103-337, div. A, title XVI, §1663(b)(2), (4), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104-106, div. A, title XV, §1501(b)(34), Feb. 10, 1996, 110 Stat. 498; Pub. L. 106-419, title I, §102(d), Nov. 1, 2000, 114 Stat. 1825.)

AMENDMENTS

2000—Subsec. (a)(2). Pub. L. 106-419 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “before completing initial active duty for training has completed the requirements of a secondary school diploma (or an equivalency certificate), or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension;”.

1996—Subsec. (c). Pub. L. 104-106 substituted “sections 16134” for “section 16134”.

1994—Pub. L. 103-337, §1663(b)(2), renumbered section 2132 of this title as this section.

Subsec. (a). Pub. L. 103-337, §1663(b)(4)(A), substituted “16131” for “2131” in concluding provisions.

Subsec. (c). Pub. L. 103-337, §1663(b)(4)(B), substituted “section 16134 and 16135” for “sections 2134 and 2135”.

1991—Subsec. (d). Pub. L. 102-25 substituted “section 115(a)(1)(B)” for “section 115(b)(1)(A)(ii)”.

1989—Subsec. (c). Pub. L. 101-189, §645(a), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs” and “to that Secretary” for “to the Administrator”.

Subsec. (d). Pub. L. 101-189, §645(a)(1), (b)(2), substituted “A person” for “An individual” and “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.

Pub. L. 101-189, §643(a), inserted at end “However, a person may not receive credit under the program established by this chapter for service (in any grade) on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components in a position which is included in the end strength required to be authorized each year by section 115(b)(1)(A)(ii) of this title.”

1988—Subsec. (a)(2). Pub. L. 100-689, §111(b)(2), substituted “completed the requirements of” for “received”, and inserted before semicolon at end “, or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension”.

Subsec. (b). Pub. L. 100-689, §110(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “Educational assistance may not be provided to a member under this chapter until the member—

“(1) has completed the initial period of active duty for training required of the member; and

“(2) has completed 180 days of service in the Selected Reserve.”

Subsec. (c). Pub. L. 100-689, §111(b)(3), inserted at end “At the request of the Administrator of Veterans Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator.”

Subsec. (d). Pub. L. 100-689, §111(b)(4), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “A person who is entitled to educational assistance under chapter 30 of title 38 based on section 1412 of that title may not also be provided educational assistance under this chapter.”

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

1984—Pub. L. 98-525 amended section generally, updating provisions covering eligibility for educational assistance to cover the period beginning July 1, 1985, and ending June 30, 1988.

1980—Pub. L. 96-513 inserted “of this title” after “section 2131” wherever appearing.

1978—Subsec. (b)(1). Pub. L. 95-485 substituted “not less than six years” for “automatically extended by two years” and “last day of the term” for “eighth anniversary”.

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 this title.

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 this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as a note under section 16131 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

SAVINGS PROVISION

Section 643(b) of Pub. L. 101-189 provided that: “The amendment made by subsection (a) [amending this section] shall not affect the eligibility for educational assistance of any person who before the date of the enactment of this Act [Nov. 29, 1989] is entitled to educational assistance under section 2131(a) [now 16131(a)] of title 10, United States Code.”

§ 16132a. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—Subject to regulation prescribed by the Secretary of Defense, the Secretary concerned may permit a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such member’s entitlement to such assistance, subject to the limitation under subsection (d).

(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the Selected Reserve of the Ready Reserve who, at the time of the approval of the member’s request to transfer

entitlement to basic educational assistance under this section, has completed—

- (1) at least six years of service in the Selected Reserve 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 subsection (j).

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

- (1) To the member's spouse.
- (2) To one or more of the member'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 member 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.**—A member 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 16133, a member approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the member's request to transfer such entitlement.

(2) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. 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 member 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 member 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) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member 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 chapter in the same manner as the member from whom the entitlement was transferred.

(3) 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 16131 and 16131a to the member making the transfer.

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

(5) The involuntary separation or retirement of the member—

- (A) because of a nondiscretionary provision of law for age or years of service;
- (B) because of a policy prescribed by the Secretary concerned mandating such separation or retirement based solely on age or years of service for the prescribed pay grade of an enlisted member;
- (C) under section 16133(b); or
- (D) because of medical disqualification which is not the result of gross negligence or misconduct of the member,

shall not affect the use of entitlement by the dependent to whom the entitlement is transferred.

(6) A child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

(7) 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 member for purposes of such provisions.

(8) 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 member 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 title 38.

(2) Except as provided in paragraph (3), if a member's eligibility is terminated under section 16134(2), the amount of any transferred entitlement under this section that is used by a dependent of the member as of the date of such termination shall be treated as an overpayment of basic educational assistance under paragraph (1).

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

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

(B) for a reason referred to in section 16133(b).

(j) REGULATIONS.—The Secretary of Defense, in consultation 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 manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2); and

(4) the manner in which the provisions referred to in subsections (h)(4) and (5) shall be administered with respect to a dependent to whom entitlement is transferred under this section.

(Added Pub. L. 110-252, title V, §5006(b), June 30, 2008, 122 Stat. 2381; amended Pub. L. 111-383, div. A, title X, §1075(b)(55), Jan. 7, 2011, 124 Stat. 4372.)

AMENDMENTS

2011—Subsec. (b)(1). Pub. L. 111-383, §1075(b)(55)(A), substituted “agreement to serve” for “agreement to service”.

Subsec. (i)(2). Pub. L. 111-383, §1075(b)(55)(B), struck out “whose” after “member’s”.

§ 16133. Time limitation for use of entitlement

(a) Except as provided in subsection (b), the period during which a person entitled to educational assistance under this chapter may use such person's entitlement expires on the date the person is separated from the Selected Reserve.

(b)(1) In the case of a person—

(A) who is separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter; or

(B) who, on or after the date on which such person became entitled to educational assistance under this chapter ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on December 31, 2001, or the period beginning on October 1, 2007, and ending on September 30, 2014, 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 this title,

the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection.

(2) The provisions of section 3031(f) of title 38 shall apply to the period of entitlement prescribed by subsection (a).

(3) The provisions of section 3031(d) of title 38 shall apply to the period of entitlement prescribed by subsection (a) in the case of a disability incurred in or aggravated by service in the Selected Reserve.

(4) In the case of a member of the Selected Reserve of the Ready Reserve who serves on active duty pursuant to an order to active duty issued under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of this title—

(A) the period of such active duty service plus four months shall not be considered in determining the expiration date applicable to such member under subsection (a); and

(B) the member may not be considered to have been separated from the Selected Reserve for the purposes of clause (2) of such subsection by reason of the commencement of such active duty service.

(Added Pub. L. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 329, §2133; amended Pub. L. 96-107, title IV, §402(b), Nov. 9, 1979, 93 Stat. 808; Pub. L. 96-513, title V, §511(70), Dec. 12, 1980, 94 Stat. 2926; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; Pub. L. 100-456, div. A, title XII, §1233(g)(2), Sept. 29, 1988, 102 Stat. 2058; Pub. L. 100-689, title I, §111(b)(5), Nov. 18, 1988, 102 Stat. 4173; Pub. L. 102-127, §3, Oct. 10, 1991, 105 Stat. 622; Pub. L. 102-484, div. D, title XLIV, §4419(a), Oct. 23, 1992, 106 Stat. 2717; Pub. L. 102-568, title III, §320(a)(2), Oct. 29, 1992, 106 Stat. 4335; Pub. L. 103-160, div. A, title V, §561(m), Nov. 30, 1993, 107 Stat. 1668; renumbered §16133 and amended Pub. L. 103-337, div. A, title XVI, §1663(b)(2), (5), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 105-85, div. A, title V, §553(b), Nov. 18, 1997, 111 Stat. 1748; Pub. L. 105-261, div. A, title V, §561(q), Oct. 17, 1998, 112 Stat. 2027; Pub. L. 106-398, §1 [[div. A], title V, §571(p)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135; Pub. L. 107-314, div. A, title VI, §641(a), Dec. 2, 2002, 116 Stat. 2576; Pub. L. 110-181, div. A, title V, §529, Jan. 28, 2008, 122 Stat. 110; Pub. L. 110-252, title V, §5006(d), June 30, 2008, 122 Stat. 2386.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-252 substituted “on the date the person is separated from the Selected Reserve.” for “(1) at the end of the 14-year period beginning on the date on which such person becomes entitled to such assistance, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.”

Subsec. (b)(1)(B). Pub. L. 110-181 inserted “or the period beginning on October 1, 2007, and ending on September 30, 2014,” after “December 31, 2001.”

2002—Subsec. (a)(1). Pub. L. 107-314 substituted “14-year” for “10-year”.

2000—Subsec. (b)(1)(B). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsec. (b)(1)(B). Pub. L. 105-261 substituted “September 30, 2001” for “September 30, 1999”.

1997—Subsec. (b)(4). Pub. L. 105-85 struck out “(A)” before “In the case of”, redesignated cls. (i) and (ii) as

subpars. (A) and (B), respectively, struck out “, during the Persian Gulf War,” after “Ready Reserve who”, and struck out former subpar. (B) which read as follows: “For the purposes of this paragraph, the term ‘Persian Gulf War’ shall have the meaning given such term in section 101(33) of title 38.”

1994—Pub. L. 103-337, §1663(b)(2), renumbered section 2133 of this title as this section.

Subsec. (b)(1)(B). Pub. L. 103-337, §1663(b)(5)(A), substituted “10143(a)” for “268(b)”.

Subsec. (b)(4)(A). Pub. L. 103-337, §1663(b)(5)(B), substituted “12301(a), 12301(d), 12301(g), 12302, or 12304” for “672(a), (d), or (g), 673, or 673b”.

1993—Subsec. (b)(1)(B). Pub. L. 103-160 substituted “September 30, 1999” for “September 30, 1995”.

1992—Subsec. (b)(1). Pub. L. 102-484 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual’s own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection.”

Subsec. (b)(2), (3). Pub. L. 102-568 substituted “section 3031(f) of title 38” for “section 1431(f) of title 38” in par. (2) and “section 3031(d) of title 38” for “section 1431(d) of title 38” in par. (3).

1991—Subsec. (b)(4). Pub. L. 102-127 added par. (4).

1988—Subsec. (a). Pub. L. 100-689, §111(b)(5)(A), substituted “chapter” for “section”.

Subsec. (b). Pub. L. 100-689, §111(b)(5)(B), added par. (1), redesignated existing pars. (1) and (2) as (2) and (3), respectively, and directed the substitution of “1431(f)” for “1431(e)” in par. (2) as redesignated, which could not be executed because such substitution was previously made by Pub. L. 100-456, prior to redesignation of par. (1) as (2), see below.

Pub. L. 100-456 substituted “section 1431(f)” for “section 1431(e)” in par. (1).

1984—Pub. L. 98-525 amended section generally, substituting provisions setting a time limit for the use of educational entitlement for provisions covering the termination of assistance and refund by members. See section 2134 of this title.

1980—Subsec. (a). Pub. L. 96-513 inserted “of this title” after “2131” and “2107”.

1979—Subsec. (b). Pub. L. 96-107 redesignated existing provisions as par. (1), inserted provisions respecting agreement for term of enlistment, substituted provisions relating to computation under par. (2) for provisions relating to computation under section 2131, and added par. (2).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title VI, §641(b), Dec. 2, 2002, 116 Stat. 2577, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2002, and shall apply with respect to periods of entitlement to educational assistance under chapter 1606 of title 10, United States Code, that begin on or after October 1, 1992.”

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 this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as a note under section 16131 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96-107 applicable only to individuals enlisting in the Reserves after Sept. 30, 1979, see section 402(c) of Pub. L. 96-107, set out as a note under section 16131 of this title.

§ 16134. Termination of assistance

Educational assistance may not be provided under this chapter—

(1) to a member receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers’ Training Corps program; or

(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.

(Added Pub. L. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 330, §2134; amended Pub. L. 98-94, title XII, §1268(14), Sept. 24, 1983, 97 Stat. 707; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; renumbered §16134, Pub. L. 103-337, div. A, title XVI, §1663(b)(2), Oct. 5, 1994, 108 Stat. 3006.)

AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2134 of this title as this section.

1984—Pub. L. 98-525 amended section generally, substituting provisions covering termination of educational assistance for provisions relating to reports to Congress. See section 16137 of this title.

1983—Pub. L. 98-94 struck out provision requiring the first report under this section to be submitted not later than Dec. 31, 1977.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as a note under section 16131 of this title.

§ 16135. Failure to participate satisfactorily; penalties

(a) PENALTIES.—At the option of the Secretary concerned, a member of the Selected Reserve of an armed force who does not participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter, and during which the member has received such assistance, may—

(1) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 16132 of this title, whichever is less; or

(2) be subject to the repayment provisions under section 303a(e) of title 37.

(b) EFFECT OF REPAYMENT.—Any repayment under section 303a(e) of title 37 shall not affect the period of obligation of a member to serve as a Reserve in the Selected Reserve.

(Added Pub. L. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 330, §2135; amended Pub. L. 95-485, title IV, §402(b), Oct. 20, 1978, 92 Stat. 1613; Pub. L. 96-342, title IX, §906(b), Sept. 8, 1980, 94 Stat. 1117; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; Pub. L. 100-689, title I, §111(b)(6), Nov. 18, 1988, 102 Stat. 4173; renumbered §16135 and amended Pub. L. 103-337, div. A,

title XVI, §1663(b)(2), (6), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104-106, div. A, title XV, §1501(b)(35), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107-314, div. A, title VI, §642, Dec. 2, 2002, 116 Stat. 2577; Pub. L. 109-163, div. A, title VI, §687(c)(12), Jan. 6, 2006, 119 Stat. 3335.)

AMENDMENTS

2006—Pub. L. 109-163 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to penalties for failure of a member of the Selected Reserve of the Ready Reserve of an armed force to participate satisfactorily in required training.

2002—Subsec. (c). Pub. L. 107-314 added subsec. (c).

1996—Subsec. (b)(1)(A). Pub. L. 104-106 substituted “16131(a)” for “2131(a)”.

1994—Pub. L. 103-337, §1663(b)(2), renumbered section 2135 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 103-337, §1663(b)(6)(A), substituted “16132” for “2132”.

Subsec. (b)(1)(A). Pub. L. 103-337, §1663(b)(6)(B), which directed substitution of “section 16132(a)” for “section 2132(a)”, could not be executed because “section 2132(a)” does not appear in subsec. (b)(1)(A).

1988—Subsec. (a)(1). Pub. L. 100-689, §111(b)(6)(A), inserted “, and during which the member has received such assistance,” after “chapter”.

Subsec. (b)(1)(A). Pub. L. 100-689, §111(b)(6)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and”.

1984—Pub. L. 98-525 amended section generally, substituting provisions relating to the failure to participate satisfactorily and penalties for provisions which had designated Sept. 30, 1985, as the termination date for enlistments qualifying for educational assistance.

1980—Pub. L. 96-342 substituted “1985” for “1980”.

1978—Pub. L. 95-485 substituted “1980” for “1978”.

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 this title.

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 this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as a note under section 16131 of this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

§ 16136. Administration of program

(a) Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements

shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

(b) Except as otherwise provided in this chapter, the provisions of sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term “eligible veteran” and the term “a person”, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c) The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to 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.

(Added Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2567, §2136; amended Pub. L. 101-189, div. A, title VI, §§642(c), 645(a)(1), Nov. 29, 1989, 103 Stat. 1457, 1458; Pub. L. 101-237, title IV, §§405(d)(3), 422(b)(1), Dec. 18, 1989, 103 Stat. 2081, 2089; Pub. L. 101-510, div. A, title XIV, §1484(j)(3), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 102-16, §10(b), Mar. 22, 1991, 105 Stat. 56; Pub. L. 102-568, title III, §§313(a)(6), 319, 320(a)(3), Oct. 29, 1992, 106 Stat. 4333, 4335, 4336; renumbered §16136, Pub. L. 103-337, div. A, title XVI, §1663(b)(2), Oct. 5, 1994, 108 Stat. 3006; Pub. L. 103-446, title VI, §601(c), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105-368, title II, §204(b), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-296 substituted “Secretary of Homeland Security” for “Secretary of Transportation”.

1998—Subsec. (c)(2). Pub. L. 105-245 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—Pub. L. 103-337 renumbered section 2136 of this title as this section.

Subsec. (c). Pub. L. 103-446 struck out “(1)” after “(c)”, 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. (b). Pub. L. 102-568, §320(a)(3), substituted “sections 3470, 3471, 3474, 3476, 3482(g), 3483, and

3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692)” for “sections 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1786(a), 1787, and 1792)”.

Pub. L. 102-568, § 319, struck out “1780(c),” after “exception of sections”.

Subsec. (c)(1). Pub. L. 102-568, § 313(a)(6), substituted “section 3680A(b) of title 38” for “section 1673(b) of title 38”.

1991—Subsec. (b). Pub. L. 102-16 struck out “1434(b), 1663,” before “1670,” and “1780(g),” before “1786(a),”.

1990—Subsec. (a). Pub. L. 101-510 substituted “Department of Veterans Affairs” for “Veterans’ Administration” in two places.

1989—Subsec. (a). Pub. L. 101-189, § 645(a)(1), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

Subsec. (b). Pub. L. 101-237, § 405(d)(3), inserted reference to section 1685 of title 38.

Pub. L. 101-189, § 642(c), amended first sentence generally and substituted “and the term ‘a person’, as used” for “, as used” in second sentence. Prior to amendment, first sentence read as follows: “Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter.”

Subsec. (c). Pub. L. 101-237, § 422(b)(1), added subsec. (c).

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 this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-368, title II, § 204(c), Nov. 11, 1998, 112 Stat. 3327, provided that: “The amendments made by this section [amending this section and sections 3034 and 3241 of Title 38, Veterans’ Benefits] shall apply with respect to courses of flight training beginning on or after October 1, 1998.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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 Title 38, Veterans’ Benefits.

EFFECTIVE DATE OF 1989 AMENDMENTS

Section 405(e) of Pub. L. 101-237 provided that: “The amendments made by this section [amending this section and section 1685 [now 3485] of Title 38, Veterans’ Benefits] shall take effect on May 1, 1990, and shall apply to services performed on or after that date.”

Amendment by section 422(b)(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 this title.

Amendment by section 642(c) of Pub. L. 101-189 applicable with respect to any person who after Sept. 30, 1990, meets the requirements set forth in section 2132(a)(1)(A) or (B) [16132(a)(1)(A), (B)] of this title, see section 642(d) of Pub. L. 101-189, set out as a note under section 16131 of this title.

EFFECTIVE DATE

Section effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as an Effective Date of 1984 Amendment note under section 16131 of this title.

SAVINGS PROVISION

Section 313(b) of Pub. L. 102-568 provided that: “The amendments made by paragraphs (2) through (6) of subsection (a) of this section [enacting section 3680A of Title 38, Veterans’ Benefits, amending this section and sections 3034 and 3241 of Title 38, and repealing section 3473 of Title 38] shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section [Oct. 29, 1992] 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 title 38, United States Code, or title 10, United States Code, in effect on that date.”

[§ 16137. Repealed. Pub. L. 112-81, div. A, title X, § 1061(29)(A), Dec. 31, 2011, 125 Stat. 1584]

Section, added Pub. L. 98-525, title VII, § 705(a)(1), Oct. 19, 1984, 98 Stat. 2567, § 2137; renumbered § 16137, Pub. L. 103-337, div. A, title XVI, § 1663(b)(2), Oct. 5, 1994, 108 Stat. 3006; amended Pub. L. 104-106, div. A, title X, § 1077, Feb. 10, 1996, 110 Stat. 451; Pub. L. 106-65, div. A, title V, § 548(a), Oct. 5, 1999, 113 Stat. 609, required biennial report on the operation of the educational assistance program.

CHAPTER 1607—EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

Sec.	Purpose.
16161.	Educational assistance program.
16162a.	Accelerated payment of educational assistance.
16163.	Eligibility for educational assistance.
16163a.	Authority to transfer unused education benefits to family members.
16164.	Time limitation for use of entitlement.
16165.	Termination of assistance.
16166.	Administration of program.

AMENDMENTS

2008—Pub. L. 110-252, title V, § 5006(e)(3), June 30, 2008, 122 Stat. 2386, added item 16163a.

Pub. L. 110-181, div. A, title V, § 528(b)(2), Jan. 28, 2008, 122 Stat. 109, added item 16162a.

§ 16161. Purpose

The purpose of this chapter is to provide educational assistance to members of the reserve components called or ordered to active service in response to a war or national emergency declared by the President or the Congress, in recognition of the sacrifices that those members make in answering the call to duty.

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1890.)

§ 16162. Educational assistance program

(a) PROGRAM ESTABLISHMENT.—The Secretary of each military department, under regulations prescribed by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program as prescribed in this chapter to provide educational assistance to members of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned.

(b) AUTHORIZED EDUCATION PROGRAMS.—Educational assistance may be provided under this

chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38.

(c) **BENEFIT AMOUNT.**—(1) The educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, through the Secretary of Veterans Affairs, an educational assistance allowance to each member entitled to educational assistance under this chapter who is pursuing a program of education authorized under subsection (b).

(2) The educational assistance allowance provided under this chapter shall be based on the applicable percent under paragraph (4) to the applicable rate provided under section 3015 of title 38 for a member whose entitlement is based on completion of an obligated period of active duty of three years.

(3) The educational assistance allowance provided under this section for a person who is undertaking a program for which a reduced rate is specified in chapter 30 of title 38, that rate shall be further adjusted by the applicable percent specified in paragraph (4).

(4) The adjusted educational assistance allowance under paragraph (2) or (3), as applicable, shall be—

(A) 40 percent in the case of a member of a reserve component who performed active service for 90 consecutive days but less than one continuous year;

(B) 60 percent in the case of a member of a reserve component who performed active service for one continuous year but less than two continuous years; or

(C) 80 percent in the case of a member of a reserve component who performed active service for—

- (i) two continuous years or more; or
- (ii) an aggregate of three years or more.

(d) **MAXIMUM MONTHS OF ASSISTANCE.**—(1) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any member under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(2)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) 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 title 38 limits an individual's receipt of assistance.

(B) The payment of the educational assistance allowance referred to in subparagraph (A) is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—

- (i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of this title; 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), the individual's 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 title 38 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).

(e) **AVAILABILITY OF ASSISTANCE FOR LICENSING AND CERTIFICATION TESTS.**—The provisions of section 16131(j) of this title shall apply to the provision of educational assistance under this chapter, except that, in applying such section under this chapter, the reference to subsection (b) in paragraph (2) of such section is deemed to be a reference to subsection (c) of this section.

(f) **CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE.**—(1)(A) Any individual eligible for educational assistance under this section may contribute amounts for purposes of receiving an increased amount of educational assistance as provided for in paragraph (2).

(B) An individual covered by subparagraph (A) may make the contributions authorized by that subparagraph at any time while a member of a reserve component, but not more frequently than monthly.

(C) The total amount of the contributions made by an individual under subparagraph (A) may not exceed \$600. Such contributions shall be made in multiples of \$20.

(D) Contributions under this subsection shall be made to the Secretary concerned. Such Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

(2) Effective as of the first day of the enrollment period following the enrollment period in which an individual makes contributions under paragraph (1), the monthly amount of educational assistance allowance applicable to such individual under this section shall be the monthly rate otherwise provided for under subsection (c) increased by—

(A) an amount equal to \$5 for each \$20 contributed by such individual under paragraph (1) for an approved program of education pursued on a full-time basis; or

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

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1890; amended Pub. L. 109-163, div. A, title V, § 539(b), Jan. 6, 2006, 119 Stat. 3250; Pub. L. 110-181, div. A, title V, § 528(c), Jan. 28, 2008, 122 Stat. 109.)

AMENDMENTS

2008—Subsec. (c)(4)(C). Pub. L. 110-181, § 528(c)(1), substituted “for—” for “for two continuous years or more.” and added cls. (i) and (ii).

Subsec. (f). Pub. L. 110-181, § 528(c)(2), added subsec. (f).

2006—Subsec. (e). Pub. L. 109-163 added subsec. (e).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-163 applicable to a licensing or certification test administered on or after Jan.

6, 2006, see section 539(c) of Pub. L. 109-163, set out as a note under section 16131 of this title.

§ 16162a. Accelerated payment of educational assistance

(a) **PAYMENT ON ACCELERATED BASIS.**—The educational assistance allowance payable under section 16162 of this title with respect to an eligible member described in subsection (b) may, upon the election of such eligible member, be paid on an accelerated basis in accordance with this section.

(b) **ELIGIBLE MEMBERS.**—An eligible member described in this subsection is a member of a reserve component entitled to educational assistance under this chapter who is—

(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); 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 educational assistance allowance otherwise payable with respect to the member under section 16162 of this title.

(c) **AMOUNT OF ACCELERATED PAYMENT.**—(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible member 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 educational assistance allowance to which the member remains entitled under this chapter at the time of the payment.

(2)(A) In this subsection, except as provided in subparagraph (B), 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 of Veterans Affairs) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

(i) 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.

(ii) 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.

(B) In this subsection, the term “established charges” does not include any fees or payments attributable to the purchase of a vehicle.

(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible member under subsection

(a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

(d) **TIME OF PAYMENT.**—An accelerated payment of educational assistance allowance made with respect to an eligible member 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 of Veterans Affairs receives a certification from the educational institution regarding—

(1) the member’s enrollment in and pursuit of the program of education; and

(2) the amount of the established charges for the program of education.

(e) **CHARGE AGAINST ENTITLEMENT.**—(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible member under this section, the member’s entitlement to 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 educational assistance allowance otherwise payable with respect to the member under section 16162 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 educational assistance allowance otherwise payable with respect to an eligible member under section 16162 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the member’s entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner 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 of Veterans Affairs.

(f) **REGULATIONS.**—The Secretary of Veterans Affairs 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 of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

(g) **LIMITATION.**—The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed \$3,000,000.

(Added Pub. L. 110-181, div. A, title V, § 528(b)(1), Jan. 28, 2008, 122 Stat. 107.)

EFFECTIVE DATE

Pub. L. 110-181, div. A, title V, § 528(b)(3), Jan. 28, 2008, 122 Stat. 109, provided that: “The amendments made by this subsection [enacting this section] shall take effect on October 1, 2008, and shall only apply to initial enrollments in approved programs of education after such date.”

§ 16163. Eligibility for educational assistance

(a) ELIGIBILITY.—On or after September 11, 2001, a member of a reserve component is entitled to educational assistance under this chapter if the member—

(1) served on active duty in support of a contingency operation for 90 consecutive days or more; or

(2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full time National Guard duty under section 502(f) of title 32 for 90 consecutive days or more when authorized by the President or Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds.

(b) DISABLED MEMBERS.—Notwithstanding the eligibility requirements in subsection (a), a member who was ordered to active service as prescribed under subsection (a)(1) or (a)(2) but is released from duty before completing 90 consecutive days because of an injury, illness or disease incurred or aggravated in the line of duty shall be entitled to educational assistance under this chapter at the rate prescribed in section 16162(c)(4)(A) of this title.

(c) WRITTEN NOTIFICATION.—(1) Each member who becomes entitled to educational assistance under subsection (a) shall be given a statement in writing prior to release from active service that summarizes the provisions of this chapter and stating clearly and prominently the substance of section 16165 of this title as such section may apply to the member.

(2) At the request of the Secretary of Veterans Affairs, the Secretary concerned shall transmit a notice of entitlement for each such member to that Secretary.

(d) BAR FROM DUAL ELIGIBILITY.—A member who qualifies for educational assistance under this chapter may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall make an irrevocable election (in such form and manner as the Secretary of Veterans Affairs may prescribe) as to the program to which such service is to be credited.

(e) BAR FROM DUPLICATION OF EDUCATIONAL ASSISTANCE ALLOWANCE.—(1) Except as provided in paragraph (2), an individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 1606 of this title, chapter 30, 31, 32, 33, or 35 of title 38, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under more than one such program and shall elect (in such form and manner as the Secretary of Veterans Affairs may prescribe) under which program the member elects to receive educational assistance.

(2) The restriction on duplication of educational assistance under paragraph (1) does not apply to the entitlement of educational assistance under section 16131(i) of this title.

(Added Pub. L. 108-375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1892; amended Pub. L. 109-163, div. A, title V, §540(a), Jan. 6, 2006, 119 Stat. 3251; Pub. L. 110-252, title V, §5003(b)(1)(C),

June 30, 2008, 122 Stat. 2375; Pub. L. 111-84, div. A, title X, §1073(a)(36), Oct. 28, 2009, 123 Stat. 2474.)

REFERENCES IN TEXT

The Hostage Relief Act of 1980, referred to in subsec. (e)(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

2009—Subsec. (e)(1). Pub. L. 111-84 substituted “such program” for “such programs”.

2008—Subsec. (e)(1). Pub. L. 110-252 inserted “33,” after “32,”.

2006—Subsec. (e)(1). Pub. L. 109-163 substituted “Secretary of Veterans Affairs” for “Secretary concerned”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-252, title V, §5003(d), June 30, 2008, 122 Stat. 2378, provided that: “This section [enacting chapter 33 of Title 38, Veterans’ Benefits, amending this section and sections 3033, 3485, 3688 to 3690, 3692, 3695, 3697, and 3697A of Title 38, and enacting provisions set out as a note under section 3301 of Title 38] and the amendments made by this section shall take effect on August 1, 2009.”

§ 16163a. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary concerned may permit, at such Secretary’s sole discretion, a member described in subsection (b) who is entitled to basic educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such member’s entitlement to such assistance, subject to the limitation under subsection (d).

(b) ELIGIBLE MEMBERS.—A member referred to in subsection (a) is a member of the armed forces who, at the time of the approval of the member’s request to transfer entitlement to basic 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 subsection (j).

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

(1) To the member’s spouse.

(2) To one or more of the member’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 member 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.—A member 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 16164, a member approved to transfer entitlement to basic 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) A member transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred. 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 member 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 member 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) The use of any entitlement to basic educational assistance transferred under this section shall be charged against the entitlement of the member 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 chapter in the same manner as the member from whom the entitlement was transferred.

(3) 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 16162 and 16162a to the member making the transfer.

(4) The death of a member 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 16164(a)(2), 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 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 member 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) JOINT AND SEVERAL LIABILITY.—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 member 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 title 38.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—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)(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).

(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 16133(b).

(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.—For purposes of this section, the term “Secretary concerned” has the meaning given in section 101(a)(9) in the case of a member of the armed forces.

(Added Pub. L. 110-252, title V, § 5006(c), June 30, 2008, 122 Stat. 2383; amended Pub. L. 111-383, div. A, title X, § 1075(b)(56), Jan. 7, 2011, 124 Stat. 4372.)

AMENDMENTS

2011—Subsec. (b)(2). Pub. L. 111-383 substituted “subsection (j)” for “section (j)”.

§ 16164. Time limitation for use of entitlement

(a) DURATION OF ENTITLEMENT.—Except as provided in subsection (b), a member remains entitled to educational assistance under this chapter—

(1) while the member is serving—

(A) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

(B) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve); and

(2) in the case of a person who separates from the Selected Reserve of the Ready Reserve after completion of a period of active service described in section 16163 of this title and completion of a service contract under honorable conditions, during the 10-year period beginning on the date on which the person separates from the Selected Reserve.

(b) DURATION OF ENTITLEMENT FOR DISABLED MEMBERS.—(1) In the case of a person who is separated from the Ready Reserve because of a disability which was not the result of the individual’s own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, such person’s entitlement to educational assistance expires at the end of the 10-year period beginning on the date on which such person became entitled to such assistance.

(2) The provisions of subsections (d) and (f) of section 3031 of title 38 shall apply to the period of entitlement prescribed by paragraph (1).

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1892; amended Pub. L. 110-181, div. A, title V, § 530(a)(1), Jan. 28, 2008, 122 Stat. 110; Pub. L. 110-417, [div. A], title V, § 546(a), Oct. 14, 2008, 122 Stat. 4466.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-181 substituted “this chapter—” and pars. (1) and (2) for “this chapter while serving—

“(1) in the Selected Reserve of the Ready Reserve, in the case of a member called or ordered to active service while serving in the Selected Reserve; or

“(2) in the Ready Reserve, in the case of a member ordered to active duty while serving in the Ready Reserve (other than the Selected Reserve).”

Subsec. (a)(2). Pub. L. 110-417 substituted “honorable conditions” for “other than dishonorable conditions”.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title V, § 546(b), Oct. 14, 2008, 122 Stat. 4466, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 14, 2008] and shall apply to a person described in section 16163 of title 10, United States Code, who—

“(1) separates from a reserve component on or after January 28, 2008, the date of the enactment of the National Defense Authorization Act for Fiscal Year 2008 [Pub. L. 110-181]; and

“(2) as of the date of the enactment of this Act, has not used any of the person’s entitlement to educational assistance under chapter 1607 of such title.” Pub. L. 110-181, div. A, title V, § 530(c), Jan. 28, 2008, 122 Stat. 110, provided that: “The amendments made by this section [amending this section and section 16165 of this title] shall take effect as of October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375), to which such amendments relate.”

§ 16165. Termination of assistance

(a) IN GENERAL.—Except as provided in subsection (b), educational assistance may not be provided under this chapter, or if being provided under this chapter, shall be terminated—

(1) if the member is receiving financial assistance under section 2107 of this title as a member of the Senior Reserve Officers’ Training Corps program; or

(2) when the member separates from the Ready Reserve as provided in section 16164(a)(1) of this title, or upon completion of the period provided for in section 16164(a)(2) of this title, as applicable.

(b) EXCEPTION.—Under regulations prescribed by the Secretary of Defense, educational assistance may be provided under this chapter to a member of the Selected Reserve of the Ready Reserve who incurs a break in service in the Selected Reserve if the member continues to serve in the Ready Reserve during and after such break in service.

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1893; amended Pub. L. 109-163, div. A, title V, § 540(b), Jan. 6, 2006, 119 Stat. 3251; Pub. L. 110-181, div. A, title V, § 530(a)(2), (b), Jan. 28, 2008, 122 Stat. 110.)

AMENDMENTS

2008—Subsec. (a)(2). Pub. L. 110-181, § 530(a)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “when the member separates from the Ready Reserve, as provided for under section 16164(a)(1) or section 16164(a)(2), as applicable, of this title.”

Subsec. (b). Pub. L. 110-181, § 530(b), struck out “of not more than 90 days” after “in the Selected Reserve”.

2006—Pub. L. 109-163 designated existing provisions as subsec. (a), inserted heading, substituted “Except as provided in subsection (b), educational assistance” for “Educational assistance”, and added subsec. (b).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective as of Oct. 28, 2004, as if included in the enactment of Pub. L. 108-375 to which such amendment related, see section 530(c) of Pub. L. 110-181, set out as a note under section 16164 of this title.

§ 16166. Administration of program

(a) ADMINISTRATION.—Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements shall include administrative procedures to ensure the prompt and timely

transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

(b) PROGRAM MANAGEMENT.—Except as otherwise provided in this chapter, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term “eligible veteran” and the term “person”, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c) FLIGHT TRAINING.—The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to 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 member 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.

(d) TRUST FUND.—Amounts for payments for benefits under this chapter shall be derived from the Department of Defense Education Benefits Fund under section 2006 of this title.

(Added Pub. L. 108-375, div. A, title V, §527(a), Oct. 28, 2004, 118 Stat. 1893.)

CHAPTER 1608—HEALTH PROFESSIONS STIPEND PROGRAM

Sec.	
16201.	Financial assistance: health-care professionals in reserve components.
16202.	Reserve service: required active duty for training.
16203.	Penalties and limitations.
16204.	Regulations.

§ 16201. Financial assistance: health-care professionals in reserve components

(a) ESTABLISHMENT OF PROGRAM.—For the purpose of obtaining adequate numbers of commissioned officers in the reserve components who are qualified in health professions, the Secretary of each military department may establish and maintain a program to provide financial assistance under this chapter to persons engaged in training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime. Under such a program, the Secretary concerned may agree to pay a financial stipend to persons engaged in health care education and training in return for a commitment to subsequent service in the Ready Reserve.

(b) MEDICAL AND DENTAL SCHOOL STUDENTS.—(1) Under the stipend program under this chap-

ter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is eligible to be appointed as an officer in a reserve component;

(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in medicine or dentistry;

(C) signs an agreement that, unless sooner separated, the person will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within the person’s reserve component, if tendered, based upon the person’s health profession, following satisfactory completion of the educational and intern programs; and

(iii) participate in a residency program; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a health profession skill which has been designated by the Secretary of Defense as a critically needed wartime skill.

(2) Under the agreement—

(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (g), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in medicine or dentistry while enrolled in an accredited medical or dental school;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve in the Selected Reserve, upon successful completion of the program, for the period of service applicable under paragraph (3).

(3)(A) Subject to subparagraph (B), the period for which a participant is required to serve in the Selected Reserve under the agreement pursuant to paragraph (2)(D) shall be one year for each period of six months, or part thereof, for which the participant is provided a stipend pursuant to the agreement.

(B) In the case of a participant who enters into a subsequent agreement under subsection (c) and successfully completes residency training in a specialty designated by the Secretary of Defense as a specialty critically needed by the military department in wartime, the requirement to serve in the Selected Reserve may be reduced to one year for each year, or part thereof, for which the stipend was provided while enrolled in medical or dental school.

(c) PHYSICIANS AND DENTISTS IN CRITICAL WARTIME SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is a graduate of a medical school or dental school;

(B) is eligible for appointment, designation, or assignment as a medical officer or dental officer in the Reserve of the armed force concerned or has been appointed as a medical or dental officer in the Reserve of the armed force concerned; and

(C) is enrolled or has been accepted for enrollment in a residency program for physicians or dentists in a medical or dental specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (g), for the period or the remainder of the period of the residency program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as a medical officer or dental officer for service in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

(d) REGISTERED NURSES IN CRITICAL SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is a registered nurse;

(B) is eligible for appointment as—

(i) a Reserve officer for service in the Army Reserve in the Army Nurse Corps;

(ii) a Reserve officer for service in the Navy Reserve in the Navy Nurse Corps; or

(iii) a Reserve officer for service in the Air Force Reserve with a view to designation as an Air Force nurse under section 8067(e) of this title; and

(C) is enrolled or has been accepted for enrollment in an accredited program in nursing in a specialty designated by the Secretary concerned as a specialty critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a stipend, in an amount determined under subsection (g), for the period or the remainder of the period of the nursing program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before being appointed as a Reserve officer for service in the Ready Reserve—

(i) in the Nurse Corps of the Army or Navy; or

(ii) as an Air Force nurse of the Air Force;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Ready Reserve for each six months, or part thereof, for which the stipend is provided, to be served in the Selected Reserve or in the Individual Ready Reserve as specified in the agreement.

(e) BACCALAUREATE STUDENTS IN NURSING OR OTHER HEALTH PROFESSIONS.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) will, upon completion of the program, be eligible to be appointed, designated, or assigned as a Reserve officer for duty as a nurse or other health professional; and

(B) is enrolled, or has been accepted for enrollment in the third or fourth year of—

(i) an accredited baccalaureate nursing program; or

(ii) any other accredited baccalaureate program leading to a degree in a health-care profession designated by the Secretary concerned as a profession critically needed by that military department in wartime.

(2) Under the agreement—

(A) the Secretary shall agree to pay the participant a monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title for the period or the remainder of the period of the baccalaureate program in which the participant enrolls or is enrolled;

(B) the participant shall not be eligible to receive such stipend before enlistment in the Ready Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Ready Reserve; and

(D) the participant shall agree to serve, upon graduation from the baccalaureate program, one year in the Ready Reserve for each year, or part thereof, for which the stipend is paid.

(f) MENTAL HEALTH PROFESSIONALS IN CRITICAL WARTIME SPECIALTIES.—(1) Under the stipend program under this chapter, the Secretary of the military department concerned may enter into an agreement with a person who—

(A) is eligible to be appointed as an officer in a reserve component;

(B) is enrolled or has been accepted for enrollment in an institution in a course of study that results in a degree in clinical psychology or social work;

(C) signs an agreement that, unless sooner separated, the person will—

(i) complete the educational phase of the program;

(ii) accept a reappointment or redesignation within the person's reserve component, if tendered, based upon the person's health

profession, following satisfactory completion of the educational and intern programs; and

(iii) participate in a residency program if required for clinical licensure in a mental health profession skill; and

(D) if required by regulations prescribed by the Secretary of Defense, agrees to apply for, if eligible, and accept, if offered, residency training in a mental health profession skill that has been designated by the Secretary as a critically needed wartime skill.

(2) Under the agreement—

(A) the Secretary of the military department concerned shall agree to pay the participant a stipend, in the amount determined under subsection (g), for the period or the remainder of the period that the student is satisfactorily progressing toward a degree in clinical psychology or social work while enrolled in a school accredited in the designated mental health discipline;

(B) the participant shall not be eligible to receive such stipend before appointment, designation, or assignment as an officer for service in the Selected Reserve;

(C) the participant shall be subject to such active duty requirements as may be specified in the agreement and to active duty in time of war or national emergency as provided by law for members of the Selected Reserve; and

(D) the participant shall agree to serve, upon successful completion of the program, one year in the Selected Reserve for each six months, or part thereof, for which the stipend is provided.

(g) AMOUNT OF STIPEND.—The amount of a stipend under an agreement under subsection (b), (c), or (f) shall be—

(1) the stipend rate in effect for participants in the Armed Forces Health Professions Scholarship Program under section 2121(d) of this title, if the participant has agreed to serve in the Selected Reserve; or

(2) one-half of that rate, if the participant has agreed to serve in the Individual Ready Reserve.

(Added Pub. L. 100-180, div. A, title VII, §711(a)(3), Dec. 4, 1987, 101 Stat. 1108, §2128; renumbered §16201 and amended Pub. L. 103-337, div. A, title XVI, §1663(c)(2), (5), Oct. 5, 1994, 108 Stat. 3007, 3008; Pub. L. 104-106, div. A, title VII, §736, Feb. 10, 1996, 110 Stat. 383; Pub. L. 107-107, div. A, title V, §539, Dec. 28, 2001, 115 Stat. 1108; Pub. L. 109-163, div. A, title V, §515(b)(1)(WW), Jan. 6, 2006, 119 Stat. 3234; Pub. L. 110-417, [div. A], title VI, §616(c), Oct. 14, 2008, 122 Stat. 4486; Pub. L. 111-84, div. A, title X, §1073(c)(3), Oct. 28, 2009, 123 Stat. 2474; Pub. L. 112-81, div. A, title V, §556, Dec. 31, 2011, 125 Stat. 1416.)

AMENDMENTS

2011—Subsecs. (b)(2)(A), (c)(2)(A), (d)(2)(A). Pub. L. 112-81, §556(b)(1), substituted “subsection (g)” for “subsection (f)”.

Subsec. (f). Pub. L. 112-81, §556(a)(2), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 112-81, §556(a)(1), (b)(2), redesignated subsec. (f) as (g) and substituted “subsection (b), (c), or (f)” for “subsection (b) or (c)” in introductory provisions.

2009—Subsec. (e)(2)(A). Pub. L. 111-84 made technical amendment to directory language of Pub. L. 110-417, §616(c). See 2008 Amendment note below.

2008—Subsec. (e)(2)(A). Pub. L. 110-417, §616(c), as amended by Pub. L. 111-84, substituted “monthly stipend in an amount not to exceed the stipend rate in effect under section 2121(d) of this title” for “stipend of \$100 per month”.

2006—Subsec. (d)(1)(B)(ii). Pub. L. 109-163 substituted “Navy Reserve” for “Naval Reserve”.

2001—Subsec. (a). Pub. L. 107-107, §539(a), struck out “specialties critically needed in wartime” after “qualified in health professions” and substituted “training that leads to a degree in medicine or dentistry or training in a health professions specialty that is critically needed in wartime” for “training in such specialties” and “health care education and training” for “training in certain health care specialties”.

Subsec. (b). Pub. L. 107-107, §539(b)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 107-107, §539(b)(1), (c)(1), redesignated subsec. (b) as (c) and inserted “Wartime” after “Critical” in heading. Former subsec. (c) redesignated (d).

Subsec. (c)(1)(B). Pub. L. 107-107, §539(c)(2), inserted “or has been appointed as a medical or dental officer in the Reserve of the armed force concerned” before semicolon at end.

Subsec. (c)(2)(A). Pub. L. 107-107, §539(e), substituted “subsection (f)” for “subsection (e)”.

Subsec. (c)(2)(D). Pub. L. 107-107, §539(d), substituted “one year in the Ready Reserve for each six months” for “two years in the Ready Reserve for each year”.

Subsec. (d). Pub. L. 107-107, §539(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2)(A). Pub. L. 107-107, §539(e), substituted “subsection (f)” for “subsection (e)”.

Subsec. (d)(2)(D). Pub. L. 107-107, §539(d), substituted “one year in the Ready Reserve for each six months” for “two years in the Ready Reserve for each year”.

Subsecs. (e), (f). Pub. L. 107-107, §539(b)(1), redesignated subsecs. (d) and (e) as (e) and (f), respectively.

1996—Subsec. (b). Pub. L. 104-106, §736(1), inserted “and Dentists” in heading.

Subsec. (b)(1)(A). Pub. L. 104-106, §736(2), inserted “or dental school” after “medical school”.

Subsec. (b)(1)(B). Pub. L. 104-106, §736(3), inserted “or dental officer” after “medical officer”.

Subsec. (b)(1)(C). Pub. L. 104-106, §736(4), substituted “physicians or dentists in a medical or dental specialty” for “physicians in a medical specialty”.

Subsec. (b)(2)(B). Pub. L. 104-106, §736(3), inserted “or dental officer” after “medical officer”.

1994—Pub. L. 103-337, §1663(c)(2), renumbered section 2128 of this title as this section.

Subsecs. (a), (b)(1), (c)(1), (d)(1). Pub. L. 103-337, §1663(c)(5), substituted “chapter” for “subchapter”.

Subsec. (f). Pub. L. 103-337, §1663(c)(2), struck out subsec. (f) which defined “Individual Ready Reserve”.

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided that the amendment made by section 1073(c)(3) is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

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 this title.

PAYMENTS FOR PERIOD PRIOR TO DECEMBER 4, 1987

Section 711(e)(2) of Pub. L. 100-180 provided that: “An agreement entered into by the Secretary of a military department under section 2128 [now 16201] of title 10, United States Code, as added by subsection (a), may not obligate the United States to make a payment for any period before the date of the enactment of this Act [Dec. 4, 1987].”

§ 16202. Reserve service: required active duty for training

(a) **SELECTED RESERVE.**—A person who is required under an agreement under section 16201 of this title to serve in the Selected Reserve shall serve not less than 12 days of active duty for training each year during the period of service required by the agreement.

(b) **IRR SERVICE.**—A person who is required under an agreement under section 16201 of this title to serve in the Individual Ready Reserve shall serve—

(1) not less than 30 days of initial active duty for training; and

(2) not less than five days of active duty for training each year during the period of service required by the agreement.

(Added Pub. L. 100-180, div. A, title VII, §711(a)(3), Dec. 4, 1987, 101 Stat. 1111, §2129; renumbered §16202 and amended Pub. L. 103-337, div. A, title XVI, §1663(c)(3), (6), Oct. 5, 1994, 108 Stat. 3007, 3008.)

AMENDMENTS

1994—Pub. L. 103-337, §1663(c)(3), renumbered section 2129 of this title as this section.

Subsecs. (a), (b). Pub. L. 103-337, §1663(c)(6), substituted “16201” for “2128”.

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 this title.

§ 16203. Penalties and limitations

(a) **FAILURE TO COMPLETE PROGRAM OF TRAINING.**—(1) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in training, or for other reasons, shall be required, at the discretion of the Secretary concerned—

(A) to perform one year of active duty for each year (or part thereof) for which such person was provided financial assistance under this section; or

(B) to comply with the repayment provisions of section 303a(e) of title 37.

(2) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member participating in the program who is dropped from the program from any requirement that may be imposed under paragraph (1), but such relief shall not relieve him from any military obligation imposed by any other law.

(b) **PROHIBITIONS OF DUPLICATE BENEFITS.**—Financial assistance may not be provided under this section to a member receiving financial assistance under section 2107 of this title.

(Added Pub. L. 100-180, div. A, title VII, §711(a)(3), Dec. 4, 1987, 101 Stat. 1111, §2130; renumbered §16203 and amended Pub. L. 103-337, div. A, title XVI, §1663(c)(4), Oct. 5, 1994, 108 Stat. 3008; Pub. L. 109-163, div. A, title VI, §687(c)(13), Jan. 6, 2006, 119 Stat. 3335.)

AMENDMENTS

2006—Subsec. (a)(1)(B). Pub. L. 109-163 amended subpar. (B) generally. Prior to amendment, subpar. (B)

read as follows: “to repay the United States an amount equal to the total amount paid to such person under the program.”

1994—Pub. L. 103-337, §1663(c)(4), renumbered section 2130 of this title as this section and substituted “Penalties and limitations” for “Penalties, limitations, and other administrative provisions” as section catchline.

Subsec. (c). Pub. L. 103-337, §1663(c)(4)(A), struck out subsec. (c) which related to regulations. See section 16204 of this title.

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 this title.

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

§ 16204. Regulations

This chapter shall be administered under regulations prescribed by the Secretary of Defense.

(Added Pub. L. 103-337, div. A, title XVI, §1663(c)(1), Oct. 5, 1994, 108 Stat. 3007.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 2130(c) of this title, prior to amendment by Pub. L. 103-337, §1663(c)(4)(A).

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

CHAPTER 1609—EDUCATION LOAN REPAYMENT PROGRAMS

Sec.

- | | |
|--------|--|
| 16301. | Education loan repayment program: members of Selected Reserve. |
| 16302. | Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages. |
| 16303. | Loan repayment program: chaplains serving in the Selected Reserve. |

AMENDMENTS

2008—Pub. L. 110-181, div. A, title VI, §672(c)(2), Jan. 28, 2008, 122 Stat. 185, substituted “Education loan repayment program: members of Selected Reserve” for “Education loan repayment program: enlisted members of Selected Reserve with critical specialties” in item 16301.

2006—Pub. L. 109-163, div. A, title VI, §684(b), Jan. 6, 2006, 119 Stat. 3325, added item 16303.

§ 16301. Education loan repayment program: members of Selected Reserve

(a)(1) Subject to the provisions of this section, the Secretary of Defense may repay—

(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.);

(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.); or

(D) any loan incurred for educational purposes made by a lender that is—

- (i) an agency or instrumentality of a State;
- (ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;
- (iii) a pension fund approved by the Secretary for purposes of this section; or
- (iv) a nonprofit private entity designated by a State, regulated by that State, and approved by the Secretary for purposes of this section.

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for service performed as a member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and in an officer program or military specialty specified by the Secretary of Defense. The Secretary may repay such a loan only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) is 15 percent or \$500, whichever is greater, for each year of service, plus the amount of any interest that may accrue during the current year.

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of the loan shall accrue and be paid in the same manner as is otherwise required. For the purposes of this section, any interest that has accrued on the loan for periods before the current year shall be considered as within the total loan amount that shall be repaid.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) A person who transfers from service making the person eligible for repayment of loans under this section (as described in subsection (a)(2)) to service making the person eligible for repayment of loans under section 2171 of this title (as described in subsection (a)(2) of that section) during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section and section 2171 of this title during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a) and section 2171(a) of this title.

(g) The Secretary of Homeland Security may repay loans described in subsection (a)(1) and otherwise administer this section in the case of members of the Selected Reserve of the Coast Guard Reserve when the Coast Guard is not operating as a service in the Navy.

(h) Except a person described in subsection (e) who transfers to service making the person eligible for repayment of loans under section 2171 of this title, a member of the armed forces who

fails to complete the period of service required to qualify for loan repayment under this section shall be subject to the repayment provisions of section 303a(e) of title 37.

(i) The Secretary of Defense may prescribe, by regulations, procedures for implementing this section, including standards for qualified loans and authorized payees and other terms and conditions for making loan repayments. Such regulations may include exceptions that would allow for the payment as a lump sum of any loan repayment due to a member under a written agreement that existed at the time of a member's death or disability.

(Added Pub. L. 103-337, div. A, title XVI, §1663(d)(1), Oct. 5, 1994, 108 Stat. 3008; amended Pub. L. 104-106, div. A, title X, §1079(b), Feb. 10, 1996, 110 Stat. 451; Pub. L. 106-65, div. A, title VI, §676, Oct. 5, 1999, 113 Stat. 676; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 108-136, div. A, title V, §534, Nov. 24, 2003, 117 Stat. 1474; Pub. L. 108-375, div. A, title V, §526, Oct. 28, 2004, 118 Stat. 1890; Pub. L. 110-181, div. A, title VI, §672(a)-(c)(1), Jan. 28, 2008, 122 Stat. 184, 185; Pub. L. 111-383, div. A, title V, §552(b), Jan. 7, 2011, 124 Stat. 4220.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsection (a)(1), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), C (§1087a et seq.), and D (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

2011—Subsecs. (h), (i). Pub. L. 111-383 added subsecs. (h) and (i).

2008—Pub. L. 110-181, §672(c)(1), substituted “Education loan repayment program: members of Selected Reserve” for “Education loan repayment program: enlisted members of Selected Reserve with critical specialties” in section catchline.

Subsec. (a)(1)(D). Pub. L. 110-181, §672(a), added subpar. (D).

Subsec. (a)(2). Pub. L. 110-181, §672(b)(1), substituted “The Secretary” for “Except as provided in paragraph (3), the Secretary” and “a member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and in an officer program or military specialty” for “an enlisted member of the Selected Reserve of the Ready Reserve of an armed force in a reserve component and military specialty”.

Subsec. (a)(3). Pub. L. 110-181, §672(b)(2), struck out par. (3) which read as follows: “In the case of a commitment made by the Secretary of Defense after the date of the enactment of this paragraph to repay a loan under paragraph (1) conditioned upon the performance by the borrower of service as an enlisted member under paragraph (2), the Secretary may repay the loan for service performed by the borrower as an officer (rather than as an enlisted member) in the case of a borrower who, after such commitment is entered into and while performing service as an enlisted member, accepts an appointment or commission as a warrant officer or commissioned officer of the Selected Reserve.”

2004—Subsec. (a)(2). Pub. L. 108-375, §526(1), substituted “Except as provided in paragraph (3), the Secretary of Defense may repay loans” for “The Secretary may repay loans”.

Subsec. (a)(3). Pub. L. 108-375, §526(2), added par. (3).

2003—Subsec. (b). Pub. L. 108-136, §534(1), inserted before period at end “, plus the amount of any interest that may accrue during the current year”.

Subsec. (c). Pub. L. 108-136, §534(2), inserted last sentence.

2002—Subsec. (g). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

1999—Subsec. (g). Pub. L. 106-65 added subsec. (g).

1996—Subsec. (a)(1). Pub. L. 104-106 struck out “or” at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

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 this title.

EFFECTIVE DATE

Section effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as a note under section 10001 of this title.

§ 16302. Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages

(a) Under regulations prescribed by the Secretary of Defense and subject to the other provisions of this section, the Secretary concerned may repay—

(1) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

(2) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

(3) a loan made under part E of such title (20 U.S.C. 1087aa et seq.) after October 1, 1975;

(4) a health professions education loan made or insured under part A of title VII of the Public Health Service Act (42 U.S.C. 292 et seq.) or under part B of title VIII of such Act (42 U.S.C. 297 et seq.); and

(5) a loan made, insured, or guaranteed through a recognized financial or educational institution if that loan was used to finance education regarding a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in a health profession that the Secretary of Defense determines to be critically needed in order to meet identified wartime combat medical skill shortages.

(b) The Secretary concerned may repay loans described in subsection (a) only in the case of a person who—

(1) performs satisfactory service as an officer in the Selected Reserve of an armed force; and

(2) possesses professional qualifications, or is enrolled in a program of education leading to professional qualifications, in a health profession that the Secretary of Defense has determined to be needed critically in order to meet identified wartime combat medical skill shortages.

(c)(1) The amount of any repayment of a loan made under this section on behalf of any person shall be determined on the basis of each complete year of service that is described in subsection (b)(1) and performed by the person after the date on which the loan was made.

(2) The annual maximum amount of a loan that may be repaid under this section shall be

the same as the maximum amount in effect for the same year under subsection (e)(2) of section 2173 of this title for the education loan repayment program under such section.

(d) The authority provided in this section shall apply only in the case of a person first appointed as a commissioned officer on or before December 31, 2012.

(Added Pub. L. 99-145, title VI, §671(a)(1), Nov. 8, 1985, 99 Stat. 662, §2172; amended Pub. L. 100-180, div. A, title VII, §713, Dec. 4, 1987, 101 Stat. 1112; Pub. L. 101-189, div. A, title VII, §701(a)-(c), Nov. 29, 1989, 103 Stat. 1467; Pub. L. 102-484, div. A, title VI, §612(f), Oct. 23, 1992, 106 Stat. 2421; Pub. L. 103-160, div. A, title VI, §613(f), Nov. 30, 1993, 107 Stat. 1681; renumbered §16302 and amended Pub. L. 103-337, div. A, title VI, §613(e), title X, §1070(a)(9), title XVI, §1663(d)(2), Oct. 5, 1994, 108 Stat. 2783, 2855, 3009; Pub. L. 104-106, div. A, title VI, §613(h), title X, §1079(c), Feb. 10, 1996, 110 Stat. 360, 452; Pub. L. 104-201, div. A, title VI, §613(g), Sept. 23, 1996, 110 Stat. 2544; Pub. L. 105-85, div. A, title VI, §611(h), Nov. 18, 1997, 111 Stat. 1785; Pub. L. 105-261, div. A, title VI, §§611(h), 654, Oct. 17, 1998, 112 Stat. 2039, 2052; Pub. L. 106-65, div. A, title VI, §611(h), Oct. 5, 1999, 113 Stat. 650; Pub. L. 106-398, §1 [[div. A], title VI, §621(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A-151; Pub. L. 107-107, div. A, title VI, §611(h), Dec. 28, 2001, 115 Stat. 1135; Pub. L. 107-314, div. A, title VI, §612(b), Dec. 2, 2002, 116 Stat. 2567; Pub. L. 108-136, div. A, title VI, §612(b), Nov. 24, 2003, 117 Stat. 1501; Pub. L. 108-375, div. A, title VI, §§612(b), 662, Oct. 28, 2004, 118 Stat. 1947, 1974; Pub. L. 109-163, div. A, title VI, §622(b), Jan. 6, 2006, 119 Stat. 3294; Pub. L. 109-364, div. A, title VI, §612(b), Oct. 17, 2006, 120 Stat. 2248; Pub. L. 110-181, div. A, title VI, §612(b), Jan. 28, 2008, 122 Stat. 148; Pub. L. 110-417, [div. A], title V, §547, title VI, §612(b), Oct. 14, 2008, 122 Stat. 4466, 4484; Pub. L. 111-84, div. A, title VI, §612(a)(2), Oct. 28, 2009, 123 Stat. 2353; Pub. L. 111-383, div. A, title VI, §612(a)(2), Jan. 7, 2011, 124 Stat. 4236; Pub. L. 112-81, div. A, title VI, §612(a)(2), Dec. 31, 2011, 125 Stat. 1449.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(1) to (3), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219, as amended. Parts B, D, and E of title IV of the Act are classified to parts B (§1071 et seq.), C (§1087a et seq.), and D (§1087aa et seq.), respectively, of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (a)(4), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title VII of the Act is classified generally to part A (§292 et seq.) of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Part B of title VIII of the Act is classified generally to part B (§297 et seq.) of subchapter VI of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

2011—Subsec. (d). Pub. L. 112-81 substituted “December 31, 2012” for “December 31, 2011”.

Pub. L. 111-383 substituted “December 31, 2011” for “December 31, 2010”.

2009—Subsec. (d). Pub. L. 111-84 substituted “December 31, 2010” for “December 31, 2009”.

2008—Subsec. (c)(2), (3). Pub. L. 110-417, §547, added par. (2) and struck out former pars. (2) and (3) which read as follows:

“(2) Subject to paragraph (3), the amount of a loan that may be repaid under this section on behalf of any person may not exceed \$20,000 for each year of service described in paragraph (1).

“(3) The total amount that may be repaid on behalf of any person under this section may not exceed \$50,000.”

Subsec. (d). Pub. L. 110-417, §612(b), substituted “on or before December 31, 2009” for “before January 1, 2009”.

Pub. L. 110-181 substituted “January 1, 2009” for “January 1, 2008”.

2006—Subsec. (d). Pub. L. 109-364 substituted “January 1, 2008” for “January 1, 2007”.

Pub. L. 109-163 substituted “January 1, 2007” for “January 1, 2006”.

2004—Subsec. (a)(5). Pub. L. 108-375, §662, inserted “a basic professional qualifying degree (as determined under regulations prescribed by the Secretary of Defense) or graduate education in” after “regarding”.

Subsec. (d). Pub. L. 108-375, §612(b), substituted “January 1, 2006” for “January 1, 2005”.

2003—Subsec. (d). Pub. L. 108-136 substituted “January 1, 2005” for “January 1, 2004”.

2002—Subsec. (d). Pub. L. 107-314 substituted “January 1, 2004” for “January 1, 2003”.

2001—Subsec. (d). Pub. L. 107-107 substituted “January 1, 2003” for “January 1, 2002”.

2000—Subsec. (d). Pub. L. 106-398 substituted “January 1, 2002” for “January 1, 2001”.

1999—Subsec. (d). Pub. L. 106-65 substituted “January 1, 2001” for “January 1, 2000”.

1998—Subsec. (b)(2). Pub. L. 105-261, §654(a), inserted “, or is enrolled in a program of education leading to professional qualifications,” after “possesses professional qualifications”.

Subsec. (c)(2). Pub. L. 105-261, §654(b)(1), substituted “\$20,000” for “\$3,000”.

Subsec. (c)(3). Pub. L. 105-261, §654(b)(2), substituted “\$50,000” for “\$20,000”.

Subsec. (d). Pub. L. 105-261, §611(h), substituted “January 1, 2000” for “October 1, 1999”.

1997—Subsec. (d). Pub. L. 105-85 substituted “October 1, 1999” for “October 1, 1998”.

1996—Subsec. (a)(2) to (5). Pub. L. 104-106, §1079(c), added par. (2) and redesignated former pars. (2) to (4) as (3) to (5), respectively.

Subsec. (d). Pub. L. 104-201 substituted “October 1, 1998” for “October 1, 1997”.

Pub. L. 104-106, §613(h), substituted “October 1, 1997” for “October 1, 1996”.

1994—Pub. L. 103-337, §1663(d)(2), renumbered section 2172 of this title as this section and substituted “Education loan repayment program: health professions officers serving in Selected Reserve with wartime critical medical skill shortages” for “Education loans for certain health professionals who serve in the Selected Reserve” as section catchline.

Subsec. (a)(3). Pub. L. 103-337, §1070(a)(9), substituted “health professions education loan” for “health education assistance loan”, “part A” for “part C”, and “42 U.S.C. 292” for “42 U.S.C. 294”.

Subsec. (d). Pub. L. 103-337, §613(e), substituted “October 1, 1996” for “October 1, 1995”.

1993—Subsec. (d). Pub. L. 103-160 substituted “October 1, 1995” for “October 1, 1993”.

1992—Subsec. (d). Pub. L. 102-484 substituted “October 1, 1993” for “October 1, 1992”.

1989—Subsec. (a)(1). Pub. L. 101-189, §701(c)(1), struck out “a portion of” before “a loan made”.

Subsec. (a)(4). Pub. L. 101-189, §701(a), added par. (4).

Subsec. (c)(2). Pub. L. 101-189, §701(c)(2), substituted “amount of” for “portion of”.

Subsec. (d). Pub. L. 101-189, §701(b), substituted “October 1, 1992” for “October 1, 1990”.

1987—Subsec. (a)(3). Pub. L. 100-180, §713(a), inserted “or under part B of title VIII of such Act (42 U.S.C. 297 et seq.)”.

Subsec. (d). Pub. L. 100-180, §713(b), substituted “October 1, 1990” for “October 1, 1988”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-181 effective as of Dec. 31, 2007, and subject to various special provisions, see section 610 of Pub. L. 110-181, set out as a Correction of Lapsed Authorities for Payment of Bonuses, Special Pays, and Similar Benefits for Members of the Uniformed Services note under section 2130a of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1663(d)(2) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

EFFECTIVE DATE

Section 671(b)(2) of Pub. L. 99-145 provided that: “The authority provided under section 2172 [now 16302] of title 10, United States Code, as added by subsection (a), shall apply only—

“(A) in the case of a person who is first appointed as a commissioned officer of an Armed Force after September 30, 1985; and

“(B) with respect to service performed after that date.”

§ 16303. Loan repayment program: chaplains serving in the Selected Reserve

(a) AUTHORITY TO REPAY EDUCATION LOANS.—For purposes of maintaining adequate numbers of chaplains in the Selected Reserve, the Secretary concerned may repay a loan that was obtained by a person who—

(1) satisfies the requirements for accessioning and commissioning of chaplains, as prescribed in regulations;

(2) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

(3) signs a written agreement with the Secretary concerned to serve not less than three years in the Selected Reserve.

(b) EXCEPTION FOR CHAPLAIN CANDIDATE PROGRAM.—A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of a loan under subsection (a).

(c) LOAN REPAYMENT PROCESS; MAXIMUM AMOUNT.—(1) Subject to paragraph (2), the repayment of a loan under subsection (a) may consist of the payment of the principal, interest, and related expenses of the loan.

(2) The amount of any repayment of a loan made under subsection (a) on behalf of a person may not exceed \$20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (a)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to the agreement. The balance of such amount shall be payable at such time or times as are prescribed in regulations.

(d) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on whose behalf a loan is repaid under subsection (a) who fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3) shall be subject to the repayment provisions of section 303a(e) of title 37.

(e) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added and amended Pub. L. 109–163, div. A, title VI, §§ 684(a), 687(c)(14), Jan. 6, 2006, 119 Stat. 3324, 3335.)

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–163, § 687(c)(14), added subsec. (d) and struck out heading and text of former subsec. (d). Text read as follows: “If a person on whose behalf a loan is repaid under subsection (a) fails to commence or complete the period of obligated service specified in the agreement described in subsection (a)(3), the Secretary concerned may require the person to pay the United States an amount equal to the amount of the loan repayments made on behalf of the person in connection with the agreement.”

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109–163, see section 687(f) of Pub. L. 109–163, set out as a note under section 510 of this title.

CHAPTER 1611—OTHER EDUCATIONAL ASSISTANCE PROGRAMS

Sec.
16401. Marine Corps Platoon Leaders Class: college tuition assistance program.

AMENDMENTS

2000—Pub. L. 106–398, § 1 [[div. A], title V, § 533(g)], Oct. 30, 2000, 114 Stat. 1654, 1654A–112, substituted “Class: college tuition assistance program” for “Class program: officer candidates pursuing degrees” in item 16401.

§ 16401. Marine Corps Platoon Leaders Class: college tuition assistance program

(a) **AUTHORITY.**—The Secretary of the Navy may provide financial assistance to an eligible member of the Marine Corps Reserve for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in less than five academic years; or

(2) a doctor of jurisprudence or bachelor of laws degree in not more than four academic years.

(b) **ELIGIBILITY.**—(1) To be eligible for financial assistance under this section, a member of the Marine Corps Reserve must—

(A) be a member of the Marine Corps Platoon Leaders Class program and have successfully completed one six-week (or longer) increment of military training required under that program;

(B) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

(C) enter into a written agreement with the Secretary described in paragraph (2).

(2) A written agreement referred to in paragraph (1)(C) is an agreement between the member and the Secretary in which the member agrees—

(A) to accept an appointment as a commissioned officer in the Marine Corps, if tendered by the President;

(B) to serve on active duty for at least five years; and

(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Marine Corps Reserve until the eighth anniversary of the date of the appointment.

(c) **COVERED EXPENSES.**—Expenses for which financial assistance may be provided under this section are—

(1) tuition and fees charged by the institution of higher education involved;

(2) the cost of books; and

(3) in the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(d) **AMOUNT.**—The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$5,200 for any academic year.

(e) **LIMITATIONS.**—(1) Financial assistance may be provided to a member under this section only for three consecutive academic years.

(2) Not more than 1,200 members may participate in the financial assistance program under this section in any academic year.

(f) **FAILURE TO COMPLETE PROGRAM.**—(1) An enlisted member who receives financial assistance under this section may be ordered to active duty in the Marine Corps by the Secretary to serve in an appropriate enlisted grade for such period as the Secretary prescribes, but not for more than four years, and an officer who receives financial assistance under this section shall be subject to the repayment provisions of section 303a(e) of title 37, if the member—

(A) completes the military and academic requirements of the Marine Corps Platoon Leaders Class program and refuses to accept an appointment as a commissioned officer in the Marine Corps when offered or, if already a commissioned officer in the Marine Corps, refuses to accept an assignment on active duty when offered;

(B) fails to complete the military or academic requirements of the Marine Corps Platoon Leaders Class program; or

(C) is disenrolled from the Marine Corps Platoon Leaders Class program for failure to maintain eligibility for an original appointment as a commissioned officer under section 532 of this title.

(2) Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) of title 37. The Secretary of the Navy may waive the requirements of paragraph (1) in the case of a person who—

(A) becomes unqualified to serve on active duty as an officer due to a circumstance not within the control of the person;

(B) is not physically qualified for appointment under section 532 of this title and later is determined by the Secretary of the Navy under section 505 of this title to be unqualified for service as an enlisted member of the Marine Corps due to a physical or medical condition that was not the result of misconduct or grossly negligent conduct; or

(C) fails to complete the military or academic requirements of the Marine Corps Platoon Leaders Class program due to a circumstance not within the control of the person.

(g) INSTITUTION OF HIGHER EDUCATION DEFINED.—In this section, the term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(Added Pub. L. 106-65, div. A, title V, § 551(a)(1), Oct. 5, 1999, 113 Stat. 612; amended Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)-(d), (f)], Oct. 30, 2000, 114 Stat. 1654, 1654A-110, 1654A-111; Pub. L. 109-163, div. A, title VI, § 687(c)(15), Jan. 6, 2006, 119 Stat. 3336.)

AMENDMENTS

2006—Subsec. (f)(1). Pub. L. 109-163, § 687(c)(15)(A), substituted “shall be subject to the repayment provisions of section 303a(e) of title 37” for “may be required to repay the full amount of financial assistance” in introductory provisions.

Subsec. (f)(2). Pub. L. 109-163, § 687(c)(15)(B), inserted “Any requirement to repay any portion of financial assistance received under this section shall be administered under the regulations issued under section 303a(e) of title 37.” before “The Secretary of the Navy may waive” in introductory provisions.

2000—Pub. L. 106-398, § 1 [[div. A], title V, § 533(f)(1)], substituted “Class: college tuition assistance program” for “Class program: officer candidates pursuing degrees” in section catchline.

Subsec. (a). Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)(1), (f)(2)], struck out “for Financial Assistance Program” after “Authority” in heading and “enlisted” after “an eligible” in introductory provisions.

Subsec. (a)(2). Pub. L. 106-398, § 1 [[div. A], title V, § 533(c)], substituted “four” for “three”.

Subsec. (b)(1). Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)(2)(A)], substituted “a member” for “an enlisted member” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 106-398, § 1 [[div. A], title V, § 533(a)(2)(B)], substituted “a member of” for “an officer candidate in”.

Subsec. (b)(1)(B). Pub. L. 106-398, § 1 [[div. A], title V, § 533(b)(1)(A), (B)], redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “meet the applicable age requirement specified in paragraph (2);”.

Subsec. (b)(1)(C), (D). Pub. L. 106-398, § 1 [[div. A], title V, § 533(b)(1)(B), (C)], redesignated subpar. (D) as (C) and substituted “paragraph (2)” for “paragraph (3)”.

Subsec. (b)(2), (3). Pub. L. 106-398, § 1 [[div. A], title V, § 533(b)(2)-(4)], redesignated par. (3) as (2), substituted “paragraph (1)(C)” for “paragraph (1)(D)” in introductory provisions, and struck out former par. (2) which read as follows:

“(2)(A) In the case of a member pursuing a baccalaureate degree, the member meets the age requirements of this paragraph if the member will be under 27 years of age on June 30 of the calendar year in which the member is projected to be eligible for appointment as a commissioned officer in the Marine Corps through the Marine Corps Platoon Leaders Class program, except that if the member has served on active duty, the member may, on such date, be any age under 30 years that exceeds 27 years by a number of months that is not more than the number of months that the member served on active duty.

“(B) In the case of a member pursuing a doctor of jurisprudence or bachelor of laws degree, the member meets the age requirements of this paragraph if the member will be under 31 years of age on June 30 of the calendar year in which the member is projected to be eligible for appointment as a commissioned officer in the Marine Corps through the Marine Corps Platoon Leaders Class program, except that if the member has served on active duty, the member may, on such date, be any age under 35 years that exceeds 31 years by a number of months that is not more than the number of months that the member served on active duty.”

Subsec. (f)(1). Pub. L. 106-398, § 1 [[div. A], title V, § 533(d)(1)(A), (B)], in introductory provisions, sub-

stituted “An enlisted member who” for “A member who” and inserted “and an officer who receives financial assistance under this section may be required to repay the full amount of financial assistance,” after “for more than four years.”.

Subsec. (f)(1)(A). Pub. L. 106-398, § 1 [[div. A], title V, § 533(d)(1)(C)], inserted “or, if already a commissioned officer in the Marine Corps, refuses to accept an assignment on active duty when offered” after “when offered”.

Subsec. (f)(2). Pub. L. 106-398, § 1 [[div. A], title V, § 533(d)(2)], added par. (2) and struck out former par. (2) which read as follows: “The Secretary of the Navy may waive the obligated service under paragraph (1) of a person who is not physically qualified for appointment under section 532 of this title and later is determined by the Secretary of the Navy under section 505 of this title to be unqualified for service as an enlisted member of the Marine Corps due to a physical or medical condition that was not the result of misconduct or grossly negligent conduct.”

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

TRANSITION PROVISION

Pub. L. 106-65, div. A, title V, § 551(d), Oct. 5, 1999, 113 Stat. 614, provided that:

“(1) An enlisted member of the Marine Corps Reserve selected for training as an officer candidate under section 12209 of title 10, United States Code, before implementation of a financial assistance program under section 16401 of such title (as added by subsection (a)) may, upon application, participate in the financial assistance program established under section 16401 of such title (as added by subsection (a)) if the member—

“(A) is eligible for financial assistance under such section 16401;

“(B) submits a request for the financial assistance to the Secretary of the Navy not later than 180 days after the date on which the Secretary establishes the financial assistance program; and

“(C) enters into a written agreement described in subsection (b)(3) of such section.

“(2) Section 205(f) of title 37, United States Code, as added by subsection (c), applies to a member referred to in paragraph (1).”

PART V—SERVICE, SUPPLY, AND PROCUREMENT

Table with 3 columns: Chap., Issue of Serviceable Material to Reserve Components, Sec. 1801, 1803, 1805

CHAPTER 1801—ISSUE OF SERVICEABLE MATERIAL TO RESERVE COMPONENTS

[No present sections]

CHAPTER 1803—FACILITIES FOR RESERVE COMPONENTS

Table with 2 columns: Sec., Purpose, Definitions, Acquisition, Notice and wait requirements for certain projects, Authority to carry out small projects with operation and maintenance funds.