

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

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

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title I, §122(d), Nov. 1, 2000, 114 Stat. 1837, provided that: "The amendments made by this section [enacting section 3689 of this title and amending this section and sections 3232, 3452, 3482, 3501, and 3532 of this title] shall take effect on March 1, 2001, and shall apply with respect to licensing and certification tests approved by the Secretary of Veterans Affairs on or after such date."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-568 applicable to flight training received under this chapter, chapter 32 of this title, and chapter 106 of Title 10, Armed Forces, after Sept. 30, 1992, see section 310(d) of Pub. L. 102-568, set out as a note under section 16131 of Title 10.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-237 effective Sept. 30, 1990, see section 422(d) of Pub. L. 101-237, set out as a note under section 16131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 108(a)(2) of Pub. L. 100-689 effective Jan. 1, 1989, see section 108(c) of Pub. L. 100-689, set out as a note under section 3002 of this title.

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

Pub. L. 108-454, title I, §103(a), Dec. 10, 2004, 118 Stat. 3600, provided that: "For months beginning on or after October 1, 2005, and before January 1, 2008, subsection (c)(1) of section 3032 of title 38, United States Code, shall be applied as if—

- "(1) the reference to '75 percent' in subparagraph (A) were a reference to '85 percent';
- "(2) the reference to '55 percent' in subparagraph (B) were a reference to '65 percent'; and
- "(3) the reference to '35 percent' in subparagraph (C) were a reference to '45 percent'."

§ 3033. Bar to duplication of educational assistance benefits

(a)(1) An individual entitled to educational assistance under a program established by this chapter who is also eligible for educational assistance under a program under chapter 31, 32, 33, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs concurrently but shall elect (in such form and manner as the Secretary may prescribe) under which program to receive educational assistance.

(2) An individual entitled to educational assistance under chapter 34 of this title may not receive assistance under this chapter before January 1, 1990.

(b) A period of service counted for purposes of repayment under chapter 109 of title 10 of an education loan may not also be counted for purposes of entitlement to educational assistance under this chapter.

(c) An individual who serves in the Selected Reserve may not receive credit for such service

under two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10 but shall elect (in such form and manner as the Secretary may prescribe) the program to which such service is to be credited.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2561, §1433; amended Pub. L. 99-576, title III, §306, Oct. 28, 1986, 100 Stat. 3269; Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102-16, §10(a)(4), Mar. 22, 1991, 105 Stat. 55; renumbered §3033, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 110-252, title V, §5003(b)(1)(A), June 30, 2008, 122 Stat. 2375.)

Editorial Notes

REFERENCES IN TEXT

The Hostage Relief Act of 1980, referred to in subsec. (a)(1), is Pub. L. 96-449, Oct. 14, 1980, 94 Stat. 1967, which was formerly set out as a note under section 5561 of Title 5, Government Organization and Employees.

AMENDMENTS

2008—Subsec. (a)(1). Pub. L. 110-252, §5003(b)(1)(A)(i), inserted "33," after "32,".

Subsec. (c). Pub. L. 110-252, §5003(b)(1)(A)(ii), substituted "two or more of the programs established by this chapter, chapter 33 of this title, and chapters 1606 and 1607 of title 10" for "both the program established by this chapter and the program established by chapter 106 of title 10".

1991—Pub. L. 102-83 renumbered section 1433 of this title as this section.

Subsec. (b). Pub. L. 102-16 substituted "chapter 109 of title 10" for "section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141 note)".

1989—Subsecs. (a)(1), (c). Pub. L. 101-237 substituted "Secretary" for "Administrator".

1986—Subsec. (a)(1). Pub. L. 99-576, §306(a), substituted "chapter 31, 32, or 35 of this title, under chapter 106 or 107 of title 10, or under the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more of such programs" for "chapter 31, 34, or 35 of this title or under chapter 106 or 107 of title 10 may not receive assistance under both programs".

Subsec. (c). Pub. L. 99-576, §306(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "An individual who is entitled to educational assistance under chapter 106 of title 10 may not also receive educational assistance under this chapter based on entitlement under section 1412 of this title."

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

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

§ 3034. Program administration

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

(2) The term "eligible veteran", as used in the provisions of the sections enumerated in paragraph (1) of this subsection, shall be deemed to

include an individual who is eligible for educational assistance under this chapter.

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

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

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

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

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

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

(3) the flight school courses are approved by the Federal Aviation Administration and are offered by a certified pilot school that possesses a valid Federal Aviation Administration pilot school certificate.

(e)(1) In the case of a member of the Armed Forces who participates in basic educational assistance under this chapter, the Secretary shall furnish the information described in paragraph (2) to each such member. The Secretary shall furnish such information as soon as practicable after the basic pay of the member has been reduced by \$1,200 in accordance with section 3011(b) or 3012(c) of this title and at such additional times as the Secretary determines appropriate.

(2) The information referred to in paragraph (1) is information with respect to the benefits, limitations, procedures, eligibility requirements (including time-in-service requirements), and

other important aspects of the basic educational assistance program under this chapter, including application forms for such basic educational assistance under section 5102 of this title.

(3) The Secretary shall furnish the forms described in paragraph (2) and other educational materials to educational institutions, training establishments, and military education personnel, as the Secretary determines appropriate.

(4) The Secretary shall use amounts appropriated for readjustment benefits to carry out this subsection and section 5102 of this title with respect to application forms under that section for basic educational assistance under this chapter.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2562, §1434; amended Pub. L. 99-576, title III, §§301(c), 302, 305, 308(a), Oct. 28, 1986, 100 Stat. 3268-3270; Pub. L. 100-689, title I, §§106(a), 111(a)(7)(B), Nov. 18, 1988, 102 Stat. 4166, 4172; Pub. L. 101-237, title IV, §§415(b), 422(a)(1), 423(a)(5)(A), (6), (b)(1)(A), Dec. 18, 1989, 103 Stat. 2086, 2088, 2091, 2092; Pub. L. 102-16, §2(b)(2), Mar. 22, 1991, 105 Stat. 49; renumbered §3034 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §313(a)(4), Oct. 29, 1992, 106 Stat. 4332; Pub. L. 103-446, title VI, §601(a), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105-368, title II, §§204(a), 206(a), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 111-377, title II, §203(a)(2)(A), Jan. 4, 2011, 124 Stat. 4125.)

Editorial Notes

AMENDMENTS

2011—Subsec. (d)(3). Pub. L. 111-377 amended par. (3) generally. Prior to amendment, par. (3) read as follows: "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."

1998—Subsec. (d)(2). Pub. L. 105-368, §204(a), substituted "pilot certificate" for "pilot's license" in two places and inserted ", on the day the individual begins a course of flight training," after "meets".

Subsec. (e). Pub. L. 105-368, §206(a), added subsec. (e).

1994—Subsec. (d). Pub. L. 103-446 struck out "(1)" before "The Secretary may approve", redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out former par. (2) which read as follows: "This subsection shall not apply to a course of flight training that commences on or after October 1, 1994."

1992—Subsec. (a)(1). Pub. L. 102-568, §313(a)(4)(A), struck out "3473," after "3471,".

Subsec. (d)(1). Pub. L. 102-568, §313(a)(4)(B), substituted "3680A(b)" for "3473(b)" in introductory provisions.

1991—Pub. L. 102-83, §5(a), renumbered section 1434 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, §5(c)(1), substituted "3470, 3471, 3473, 3474, 3476, 3482(g), 3483, and 3485" for "1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685" and "3680(c), 3680(f), 3686(a), and 3687" for "1780(c), 1780(f), 1786(a), and 1787".

Pub. L. 102-16 struck out "1663," before "1670,".

Subsec. (a)(3). Pub. L. 102-83, §5(c)(1), substituted "3471" for "1671".

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted "3032(b)" for "1432(b)".

Subsec. (d)(1). Pub. L. 102-83, §5(c)(1), substituted "3473(b)" for "1673(b)" in introductory provisions.

1989—Subsec. (a)(1). Pub. L. 101-237, §423(a)(6)(A), inserted "1780(f)," after "1780(c),".

Pub. L. 101-237, §415(b)(1), struck out "1780(g)," after "1780(c),".

Subsec. (a)(3). Pub. L. 101-237, § 423(b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing.

Pub. L. 101-237, § 423(a)(5)(A), substituted "employment during and since the period of such veteran's active military service)" for "employment)".

Subsec. (b). Pub. L. 101-237, § 415(b)(2), (3), redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "The Administrator may, pursuant to regulations which the Administrator shall prescribe, determine and define enrollment in, pursuit of, and attendance at, any program of education by an individual enrolled in or pursuing a program of education under this chapter for any period for which the individual receives educational assistance under this chapter. Subject to such reports and proof as the Administrator may require to show an individual's enrollment in and satisfactory pursuit of such individual's program, the Administrator may withhold payment of benefits to such individual until the required proof is received and the amount of the payment is appropriately adjusted."

Subsec. (c). Pub. L. 101-237, § 423(a)(6)(B), added subsec. (c).

Pub. L. 101-237, § 415(b)(3), redesignated subsec. (c) as (b).

Subsec. (d). Pub. L. 101-237, § 422(a)(1), added subsec. (d).

1988—Subsec. (a)(1). Pub. L. 100-689, §§ 106(a)(1), 111(a)(7)(B)(i), designated existing first sentence as par. (1) and inserted "1786(a)," after "1780(g)."

Subsec. (a)(2). Pub. L. 100-689, § 106(a)(2), (3), designated existing second sentence, defining "eligible veteran", as par. (2) and substituted "the provisions of the sections enumerated in paragraph (1) of this subsection" for "those provisions".

Subsec. (a)(3). Pub. L. 100-689, § 106(a)(4), added par. (3).

Subsecs. (c), (d). Pub. L. 100-689, § 111(a)(7)(B)(ii), (iii), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: "When an eligible individual is pursuing a program of education under this chapter by correspondence, the individual's entitlement under this chapter shall be charged at the rate of one month's entitlement for each month of benefits paid to the individual."

1986—Subsec. (a). Pub. L. 99-576, §§ 301(c), 308(a), substituted "1683, and 1685" for "and 1683" and "(with the exception of sections 1780(c), 1780(g), and 1787)" for "(with the exception of sections 1777, 1780(a)(5), 1780(b), 1786, 1787, and 1792 of such chapter)".

Subsec. (b). Pub. L. 99-576, § 305, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "An educational assistance allowance for any period may not be paid to an individual enrolled in or pursuing a program of education under this chapter until the Administrator has received—

"(1) from such individual a certification as to such individual's actual attendance during such period; and

"(2) from the educational institution a certification, or an endorsement of the individual's certificate, that such individual was enrolled in and pursuing a program of education during such period."

Subsecs. (c), (d). Pub. L. 99-576, § 302, added subsec. (c) and redesignated former subsec. (c) as (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title II, § 203(e), Jan. 4, 2011, 124 Stat. 4126, provided that: "The amendments made by this section [amending this section and sections 3671 to 3673, 3675, 3679, and 3689 of this title] shall take effect on August 1, 2011."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 204(a) of Pub. L. 105-368 applicable with respect to courses of flight training begin-

ning on or after Oct. 1, 1998, see section 204(c) of Pub. L. 105-368, set out as a note under section 16136 of Title 10, Armed Forces.

Pub. L. 105-368, title II, § 206(b), Nov. 11, 1998, 112 Stat. 3328, provided that: "The amendment made by this section [amending this section] shall take effect 180 days after the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-446, title VI, § 601(d), Nov. 2, 1994, 108 Stat. 4671, provided that: "The amendments made by this section [amending this section, section 3241 of this title, and section 16136 of Title 10, Armed Forces] shall take effect as of October 1, 1994."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 422(a)(1) of Pub. L. 101-237 effective Sept. 30, 1990, see section 422(d) of Pub. L. 101-237, set out as a note under section 16131 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-689, title I, § 106(d), Nov. 18, 1988, 102 Stat. 4167, provided that: "The amendments made by this section [amending this section and sections 1641 and 1733 [now 3241 and 3533] of this title] shall take effect on August 15, 1989."

SAVINGS PROVISION

Amendment by Pub. L. 102-586 not applicable to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on Oct. 29, 1992, for as long as such person is continuously thereafter so enrolled and meets requirements of eligibility for such assistance, see section 313(b) of Pub. L. 102-568, set out as a note under section 16136 of Title 10, Armed Forces.

RATIFICATION

Pub. L. 101-366, title II, § 206(b), Aug. 15, 1990, 104 Stat. 442, provided that: "Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act [Aug. 15, 1990], of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) [set out below] is hereby ratified."

CONTINUED USE OF CATEGORIES OF INFORMATION USED PRIOR TO DECEMBER 18, 1989

Pub. L. 101-237, title IV, § 413(b), Dec. 18, 1989, 103 Stat. 2085, provided that: "Through July 1, 1990, no provision of law shall preclude the Department of Veterans Affairs, in making determinations of the active-duty or Selected Reserve status, or the character of service, of individuals receiving benefits under chapter 30 or 32 of title 38, United States Code, or chapter 106 of title 10, United States Code, from continuing to use any category of information provided by the Department of Defense or Department of Transportation that the Department of Veterans Affairs was using prior to the date of the enactment of this Act [Dec. 18, 1989], if the Secretary of Veterans Affairs determines that the information has proven to be sufficiently reliable in making such determinations."

EVALUATION OF PROVIDING ASSISTANCE FOR FLIGHT TRAINING

Pub. L. 101-237, title IV, § 422(c), Dec. 18, 1989, 103 Stat. 2090, provided that:

"(1)(A) The Secretary of Veterans Affairs shall conduct an evaluation of paying educational assistance for flight training under chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code.

“(B) The evaluation required by subparagraph (A) shall be designed to determine the effectiveness of the provision of educational assistance referred to in such subparagraph in preparing the recipients of such assistance for recognized vocational objectives in the field of aviation.

“(2) Not later than January 31, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the evaluation required by paragraph (1). Such report shall include—

“(A) information, separately as to payments made under chapter 30 of title 38, United States Code, and payments made under chapter 106 of title 10, United States Code, regarding—

“(i) the number of recipients paid educational assistance allowances for flight training;

“(ii) the amount of such assistance;

“(iii) the amount paid by the recipients for such training;

“(iv) the vocational objectives of the recipients; and

“(v) the extent to which the training (I) assists the recipients in achieving employment in the field of aviation, or (II) was used only or primarily for recreational or avocational purposes; and

“(B) any recommendations for legislation that the Secretary considers appropriate to include in the report.”

§ 3035. Allocation of administration and of program costs

(a) Except to the extent otherwise specifically provided in this chapter, the educational assistance programs established by this chapter shall be administered by the Department of Veterans Affairs.

(b)(1) Except to the extent provided in paragraphs (2), (3), and (4), payments for entitlement earned under subchapter II of this chapter shall be made from funds appropriated to, or otherwise available to, the Department of Veterans Affairs for the payment of readjustment benefits and from transfers from the Post-Vietnam Era Veterans Education Account pursuant to section 3232(b)(2)(B) of this title.

(2) Payments for entitlement earned under subchapter II of this chapter that is established under section 3015(d) of this title at a rate in excess of the rate prescribed under subsection (a) or (b) of section 3015 of this title shall, to the extent of that excess, be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Homeland Security, as appropriate.

(3) Payment for entitlements established under section 3018A or 3018B of this title shall be made—

(A) except as provided in subparagraphs (B) and (C) of this paragraph, from the Department of Defense Education Benefits Fund established under section 2006 of title 10;

(B) in the case of any individual described in section 3018A(a)(3), 3018B(a)(1)(C), or 3018B(a)(2)(C) of this title, from funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

(C) in the case of the increase in payments made under section 3015(f) of this title, from the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title.

(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.

(c) Payments for educational assistance provided under subchapter III of this chapter shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Homeland Security, as appropriate.

(d) Funds for the payment by the Secretary of benefits under this chapter that are to be paid from the Department of Defense Education Benefits Fund shall be transferred to the Department of Veterans Affairs from such Fund as necessary and in accordance with agreements entered into under section 2006 of title 10 by the Secretary, the Secretary of Defense, and the Secretary of the Treasury. Funds for the payment by the Secretary of benefits under this chapter that are to be paid from appropriations made to the Department of Homeland Security shall be transferred to the Department of Veterans Affairs as necessary. The Secretary and the Secretary of Homeland Security shall enter into an agreement for the manner in which such transfers are to be made.

(e) Payments for tutorial assistance benefits under section 3019 of this title shall be made—

(1) in the case of the first \$600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

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

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

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

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

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

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