

by this section [amending this section and section 2107a of this title] shall apply to payment of expenses of cadets and midshipmen of the Senior Reserve Officers' Training Corps program that are due after the date of the enactment of this Act [Nov. 24, 2003]."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-484, div. A, title V, § 532(b), Oct. 23, 1992, 106 Stat. 2411, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on January 1, 1993."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title X, § 1003(c)(3), Sept. 24, 1983, 97 Stat. 657, provided that: "The amendments made by this subsection [amending this section] shall apply with respect to agreements entered into under section 2107(b)(5) of title 10, United States Code, after September 30, 1983."

#### 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.

Amendment by Pub. L. 96-357 effective Oct. 1, 1980, see section 1(e) of Pub. L. 96-357, set out as a note under section 2107a of this title.

#### EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-166, § 2, Nov. 24, 1971, 85 Stat. 487, provided that: "This Act [amending this section] is effective July 1, 1971."

#### EFFECTIVE DATE

Pub. L. 88-647, title IV, § 403, Oct. 13, 1964, 78 Stat. 1074, provided that: "Insofar as it relates to the Army program and the Air Force program, section 2107(h) of title 10, United States Code [subsec. (h) of this section], becomes effective on September 1, 1968. Until that date, not more than four thousand cadets may be in either of those programs at any one time. So far as it relates to the Navy program, section 2107(h) of title 10 becomes effective on September 1, 1965."

#### REGULATIONS

Pub. L. 109-163, div. A, title V, § 533(b), Jan. 6, 2006, 119 Stat. 3248, provided that: "The Secretary of Defense shall prescribe the regulations required under subsection (j) of section 2107 of title 10, United States Code (as added by subsection (a)), not later than May 1, 2006."

#### SAVINGS PROVISION

Pub. L. 109-163, div. A, title V, § 531(c), Jan. 6, 2006, 119 Stat. 3247, provided that: "Paragraph (4) of section 2107(c) of title 10, United States Code, and paragraph (3) of section 2107a(c) of such title, as in effect on the day before the date of the enactment of this Act [Jan. 6, 2006], shall continue to apply in the case of any individual selected before the date of the enactment of this Act for appointment as a cadet or midshipman under section 2107 or 2107a of such title."

#### REVIEW REGARDING ALLOCATION OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AMONG PARTICIPATING COLLEGES AND UNIVERSITIES

Pub. L. 105-261, div. A, title V, § 507, Oct. 17, 1998, 112 Stat. 2004, provided that:

"(a) REVIEW.—The Secretary of the Navy should review the process and criteria used to determine the number of Naval Reserve Officer Training Corps (NROTC) scholarship recipients who attend each college and university participating in the NROTC program and how those scholarships are allocated to those schools.

"(b) PURPOSE OF REVIEW.—The review should seek to determine—

"(1) whether the method used by the Navy to allocate NROTC scholarships could be changed so as to

increase the likelihood that scholarship awardees attend the school of their choice while maintaining the Navy's capability to attain the objectives of the Naval ROTC program to meet the annual requirement for newly commissioned Navy ensigns and Marine Corps second lieutenants, as well as the overall needs of the officer corps of the Department of the Navy; and

"(2) within the determination under paragraph (1), whether the likelihood of a scholarship awardee who wants to attend a school of choice in the student's State of residence can be increased.

"(c) MATTERS REVIEWED.—The matters reviewed should include the following:

"(1) The factors and criteria considered in the process of determining the allocation of NROTC scholarships to host colleges and universities.

"(2) Historical data indicating the extent to which NROTC scholarship recipients attend colleges and universities they have indicated a preference to attend, as opposed to attending solely or mainly in order to receive an NROTC scholarship.

"(3) The extent to which the process used by the Navy to allocate NROTC scholarships to participating colleges and universities contributes to optimizing resources available for the operation of the NROTC program and improving the professional education of NROTC midshipmen.

"(4) The effects that eliminating the controlled allocation of scholarships to host colleges and universities, entirely or by State, would have on the NROTC program.

"(d) CONSULTATION REQUIREMENT.—In carrying out a review under subsection (a), the Secretary should consult with officials of interested associations and of colleges and universities which host ROTC units and such other officials as the Secretary considers appropriate."

#### BENEFITS NOT TO ACCRUE FOR PERIODS PRIOR TO SEPTEMBER 23, 1996

No increase in pay or retired or retainer pay to accrue for periods before Sept. 23, 1996, by reason of amendments made by section 507 of Pub. L. 104-201, see section 507(c) of Pub. L. 104-201, set out as a note under section 2106 of this title.

#### REPORT TO CONGRESS ON TEST PROGRAM FOR GRADUATE STUDENT PARTICIPATION IN FINANCIAL ASSISTANCE PROGRAM

Pub. L. 104-201, div. A, title V, § 553(c), Sept. 23, 1996, 110 Stat. 2526, directed the Secretary of Defense to submit to Congress a report, not later than Dec. 31, 1998, on the experience to that date under the test program authorized under the amendment to this section made by Pub. L. 104-201, § 553(a)(2).

#### APPLICATION OF ROTC VITALIZATION ACT OF 1964 TO APPOINTEES IN NAVAL RESERVE BEFORE OCTOBER 13, 1964

Pub. L. 89-51, § 1, June 28, 1965, 79 Stat. 173, provided: "That all provisions of law except sections 2107(b)(3) and (f) of title 10, United States Code [subsecs. (b)(3) and (f) of this section], that apply to midshipmen appointed under Public Law 88-647 [see Short Title note set out under section 2031 of this title], apply to midshipmen appointed in the Naval Reserve [now Navy Reserve] before October 13, 1964." Section 4 of Pub. L. 89-51, set out as Effective Date of 1965 Amendment note under section 2109 of this title, provided that section 1 of Pub. L. 89-51 was effective Oct. 13, 1964.

#### § 2107a. Financial assistance program for specially selected members: Army Reserve and Army National Guard

(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is enrolled in the

Advanced Course of the Army Reserve Officers' Training Corps at a military college, military junior college, or civilian institution and who will be under 31 years of age on December 31 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army Reserve or Army National Guard.

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

(b)(1) To be eligible for appointment as a cadet under this section, a member of the program must—

(A) be a citizen or national of the United States;

(B) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

(C) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

(D) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

(E) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

(F) agree in writing that he will serve in a troop program unit of the Army Reserve or Army National Guard for not less than eight years.

(2) Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

(3)(A) Subject to subparagraph (C), in the case of a person described in subparagraph (B), the Secretary may, at any time and with the consent of the person, modify an agreement described in paragraph (1)(F) submitted by the person for the purpose of reducing or eliminating the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation.

(B) Subparagraph (A) applies with respect to the following persons:

(i) A cadet under this section at a military junior college.

(ii) A cadet or former cadet under this section who is selected under section 2114 of this title to be a medical student at the Uniformed Services University of the Health Sciences.

(iii) A cadet or former cadet under this section who signs an agreement under section 2122 of this title for participation in the Armed Forces Health Professions Scholarship and Financial Assistance program.

(C) The modification of an agreement described in paragraph (1)(F) may be made only if

the Secretary determines that it is in the best interests of the United States to do so.

(c)(1) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college.

(2) In the case of a cadet eligible to receive financial assistance under paragraph (1), the Secretary of the military department concerned may, in lieu of all or part of the financial assistance described in paragraph (1), provide financial assistance in the form of room and board expenses for such cadet and other expenses required by the educational institution.

[~~(3) Repealed. Pub. L. 109-163, div. A, title V, § 531(b), Jan. 6, 2006, 119 Stat. 3247.~~]

(4)(A) The Secretary of the Army may provide an individual who received a commission as a Reserve officer in the Army from a military junior college through a program under this chapter and who does not have a baccalaureate degree with financial assistance for pursuit of a baccalaureate degree.

(B) Such assistance is in addition to any provided under paragraph (1) or (2).

(C) The agreement and reimbursement requirements established in section 2005 of this title are applicable to financial assistance under this paragraph.

(D) An officer receiving financial assistance under this paragraph shall be attached to a unit of the Army as determined by the Secretary and shall be considered to be a member of the Senior Reserve Officers' Training Corps on inactive duty for training, as defined in section 101(23) of title 38.

(E) A qualified officer who did not previously receive financial assistance under this section is eligible to receive educational assistance under this paragraph.

(F) A Reserve officer may not be called or ordered to active duty for a deployment while participating in the program under this paragraph.

(G) Any service obligation incurred by an officer under an agreement entered into under this paragraph shall be in addition to any service obligation incurred by that officer under any other provision of law or agreement.

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

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

(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, or who does not complete a baccalaureate degree within five years after appointment as a cadet under this section, may be ordered to active

duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service, other than enlisted service performed after August 1, 1979, as a member of the Selected Reserve.

(h) The Secretary of the Army shall appoint each year under this section not less than 22 cadets at each military junior college at which there are not less than 22 members of the program eligible under subsection (b) for such an appointment. At any military junior college at which in any year there are fewer than 22 such members, the Secretary shall appoint each such member as a cadet under this section.

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

(j) Financial assistance provided under this section to a cadet appointed at a military junior college is designated as, and shall be known as, an “The Skelton Early Commissioning Program Scholarship”.

(Added Pub. L. 96-357, §1(c)(1), Sept. 24, 1980, 94 Stat. 1179; amended Pub. L. 102-190, div. A, title V, §522(a), (b)(1), Dec. 5, 1991, 105 Stat. 1362; Pub. L. 104-201, div. A, title V, §§507(a)(3), 555(a), Sept. 23, 1996, 110 Stat. 2512, 2527; Pub. L. 105-85, div. A, title X, §1073(a)(36), Nov. 18, 1997, 111 Stat. 1902; Pub. L. 107-107, div. A, title V, §§534(b), 536(a), (c), Dec. 28, 2001, 115 Stat. 1106, 1107; Pub. L. 108-136, div. A, title V, §§521(b), 522, Nov. 24, 2003, 117 Stat. 1463; Pub. L. 108-375, div. A, title V, §524(b), Oct. 28, 2004, 118 Stat. 1889; Pub. L. 109-163, div. A, title V, §§531(b), 532, 534(b), 536, Jan. 6, 2006, 119 Stat. 3247-3249; Pub. L. 109-364, div. A, title V, §535, Oct. 17, 2006, 120 Stat. 2207; Pub. L. 110-181, div. A, title V, §§522, 523, Jan. 28, 2008, 122 Stat. 102, 103; Pub. L. 111-84, div. A, title V, §522, Oct. 28, 2009, 123 Stat. 2285.)

#### AMENDMENTS

2009—Subsec. (h). Pub. L. 111-84 substituted “22 cadets” for “17 cadets”, “22 members” for “17 members”, and “22 such members” for “17 such members”.

2008—Subsec. (b)(3). Pub. L. 110-181, §522, amended par. (3) generally. Prior to amendment, par. (3) read as follows: “In the case of a cadet under this section at a military junior college, or a cadet or former cadet under this section who signs an agreement under section 2122 of this title, the Secretary may, at any time and with the consent of the cadet, or former cadet, concerned, modify an agreement described in paragraph (1)(F) submitted by the cadet, or former cadet, to reduce or eliminate the troop program unit service obligation specified in the agreement and to establish, in lieu of that obligation, an active duty service obligation. Such a modification may be made only if the Secretary determines that it is in the best interests of the United States to do so.”

Subsec. (h). Pub. L. 110-181, §523, substituted “each year under this section” for “not more than 416 cadets each year under this section, to include”.

2006—Subsec. (b)(1)(A). Pub. L. 109-163, §534(b), inserted “or national” after “citizen”.

Subsec. (b)(3). Pub. L. 109-364 inserted “or a cadet or former cadet under this section who signs an agreement under section 2122 of this title,” after “military junior college,” and “, or former cadet,” after “consent of the cadet” and after “submitted by the cadet”.

Subsec. (c)(3). Pub. L. 109-163, §531(b), struck out par. (3) which read as follows: “The total amount of financial assistance, including the payment of room and board and any other educational expenses, provided to a cadet in an academic year under this subsection may not exceed an amount equal to the amount that could be provided as financial assistance for such cadet under paragraph (1), or another amount determined by the Secretary of the Army, without regard to whether the room and board and other educational expenses for such cadet are paid under paragraph (2).”

Subsec. (h). Pub. L. 109-163, §532, substituted “416” for “208”.

Subsec. (j). Pub. L. 109-163, §536, added subsec. (j).

2004—Subsec. (c)(4). Pub. L. 108-375 added par. (4).

2003—Subsec. (c). Pub. L. 108-136, §521(b), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (h). Pub. L. 108-136, §522, substituted “17” for “10” wherever appearing.

2001—Subsec. (a)(1). Pub. L. 107-107, §534(b), substituted “31 years of age on December 31” for “27 years of age on June 30” and struck out “, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 30 years of age on such date” before period at end.

Subsec. (b). Pub. L. 107-107, §536(a), designated introductory provisions of subsec. (b) as introductory provisions of par. (1), redesignated former pars. (1) to (6) as subpars. (A) to (F), respectively, of par. (1), redesignated former concluding provisions as par. (2), and added par. (3).

Subsec. (h). Pub. L. 107-107, §536(c), substituted “At any military junior college” for “At any military college” in second sentence.

1997—Subsec. (g). Pub. L. 105-85 inserted “the” after “August 1, 1979, as a member of”.

1996—Subsec. (a)(1). Pub. L. 104-201, §555(a), substituted “27 years of age” for “25 years of age” and “30 years of age” for “29 years of age”.

Subsec. (g). Pub. L. 104-201, §507(a)(3), inserted “, other than enlisted service performed after August 1, 1979, as a member of Selected Reserve” before period at end.

1991—Pub. L. 102-190, §522(b)(1), substituted “Army Reserve and Army National Guard” for “military junior colleges” in section catchline.

Subsec. (a)(1). Pub. L. 102-190, §522(a)(1), substituted “enrolled in the Advanced Course of the Army Reserve Officers’ Training Corps at a military college, military junior college, or civilian institution” for “a student at a military junior college” and inserted “Reserve or Army National Guard” after “second lieutenant in the Army”.

Subsec. (a)(2). Pub. L. 102-190, §522(a)(2), inserted “military college or” after “To be considered a”, substituted “and meet” for “that does not confer baccalaureate degrees and that meets”, and inserted at end “For purposes of this section, a military junior college does not confer a baccalaureate degree.”

Subsec. (b)(6). Pub. L. 102-190, §522(a)(3), substituted “a troop program unit of the Army Reserve or Army National Guard” for “such reserve component”.

Subsec. (f). Pub. L. 102-190, §522(a)(4), inserted “or who does not complete a baccalaureate degree within five years after appointment as a cadet under this section,” after “when offered,”.

Subsec. (h). Pub. L. 102-190, §522(a)(5), struck out par. (1) designation, substituted “not more than 208 cadets each year under this section, to include not less than 10 cadets” for “not less than 10 cadets under this section each year”, and struck out par. (2) which read as follows: “If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the

program at such military junior college who are eligible under subsection (b) for such an appointment.”

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 521(b) of Pub. L. 108-136 applicable to payment of expenses of cadets and midshipmen of Senior Reserve Officers' Training Corps Program that are due after Nov. 24, 2003, see section 521(c) of Pub. L. 108-136, set out as a note under section 2107 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title V, § 536(b), Dec. 28, 2001, 115 Stat. 1107, provided that: “The authority of the Secretary of Defense under paragraph (3) of section 2107a(b) of title 10, United States Code, as added by subsection (a), may be exercised with regard to any agreement described in paragraph (1)(F) of such section (including agreements related to participation in the Advanced Course of the Army Reserve Officers' Training Corps at a military college or civilian institution) that was entered into during the period beginning on January 1, 1991, and ending on July 12, 2000 (in addition to any agreement described in that paragraph that is entered into on or after the date of the enactment of this Act [Dec. 28, 2001]).”

#### EFFECTIVE DATE

Pub. L. 96-357, § 1(e), Sept. 24, 1980, 94 Stat. 1180, provided that: “The amendments made by this section [enacting this section and amending sections 2107 and 2108 of this title] shall take effect on October 1, 1980.”

#### SAVINGS PROVISION

Paragraph (3) of subsec. (c) of this section, as in effect on the day before Jan. 6, 2006, to continue to apply in the case of any individual selected before Jan. 6, 2006, for appointment as a cadet under this section, see section 531(c) of Pub. L. 109-163, set out as a note under section 2107 of this title.

#### BENEFITS NOT TO ACCRUE FOR PERIODS PRIOR TO SEPTEMBER 23, 1996

No increase in pay or retired or retainer pay to accrue for periods before Sept. 23, 1996, by reason of amendments made by section 507 of Pub. L. 104-201, see section 507(c) of Pub. L. 104-201, set out as a note under section 2106 of this title.

### § 2108. Advanced standing; interruption of training; delay in starting obligated service; release from program

(a) The Secretary of the military department concerned may give to any enlisted member of an armed force under his jurisdiction, or any person who has served on active duty in any armed force, such advanced standing in the program as may be justified by his education and training.

(b) In determining a member's eligibility for advanced training, the Secretary of the military department concerned may credit him with any military training that is substantially equivalent in kind to that prescribed for admission to advanced training and was received while he was taking a course of instruction in a program under the jurisdiction of another armed force or while he was on active duty in the armed forces.

(c) The Secretary of the military department concerned may excuse from a portion of the prescribed course of military instruction, including field training and practice cruises, any person found qualified on the basis of his previous education, military experience, or both.

(d) A person may become, remain, or be readmitted as, a member of the advanced training

program after receiving a baccalaureate degree or completing pre-professional studies if he has not completed the course of military instruction or all field training or practice cruises prescribed by the Secretary of the military department concerned. If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.

(e) The Secretary of the military department concerned may, when he determines that the interest of the service so requires, release any person from the program and discharge him from his armed force.

(Added Pub. L. 88-647, title II, § 201(1), Oct. 13, 1964, 78 Stat. 1068; amended Pub. L. 96-357, § 1(d), Sept. 24, 1980, 94 Stat. 1180.)

#### AMENDMENTS

1980—Subsec. (d). Pub. L. 96-357 authorized delay in starting obligated period of active duty for training or other service in an active or inactive status in a reserved component until completion of resident graduate or professional study or military junior college studies.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-357 effective Oct. 1, 1980, see section 1(e) of Pub. L. 96-357, set out as a note under section 2107a of this title.

### § 2109. Practical military training

(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all of the training prescribed under this subsection must be completed by a member before the member is commissioned.

(b) The Secretary of the military department concerned, with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title, may—

(1) transport members of, and designated applicants for membership in, the program to and from the places designated for such training or practice cruises and furnish them subsistence while traveling to and from those places, or, instead of furnishing them transportation and subsistence, pay them a travel allowance at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for travel by