

(i) the basic pay of the qualified individual shall be reduced (in a manner determined by the Secretary concerned) until the total amount by which such basic pay is reduced is \$2,700; and

(ii) to the extent that basic pay is not so reduced before the qualified individual's discharge or release from active duty as specified in subsection (a)(4), at the election of the qualified individual—

(I) the Secretary concerned shall collect from the qualified individual; or

(II) the Secretary concerned shall reduce the retired or retainer pay of the qualified individual by,

an amount equal to the difference between \$2,700 and the total amount of reductions under clause (i), which shall be paid into the Treasury of the United States as miscellaneous receipts.

(B)(i) The Secretary concerned shall provide for an 18-month period, beginning on the date the qualified individual makes an election under paragraph (1), for the qualified individual to pay that Secretary the amount due under subparagraph (A).

(ii) Nothing in clause (i) shall be construed as modifying the period of eligibility for and entitlement to basic education assistance under this chapter applicable under section 3031 of this title.

(C) The provisions of subsection (c) shall apply to qualified individuals making elections under this subsection in the same manner as they applied to individuals making elections under subsection (a)(5).

(4) With respect to qualified individuals referred to in paragraph (3)(A)(ii), no amount of educational assistance allowance under this chapter shall be paid to the qualified individual until the earlier of the date on which—

(A) the Secretary concerned collects the applicable amount under subclause (I) of such paragraph; or

(B) the retired or retainer pay of the qualified individual is first reduced under subclause (II) of such paragraph.

(5) The Secretary, in conjunction with the Secretary of Defense, shall provide for notice to participants in the educational benefits program under chapter 32 of this title of the opportunity under this subsection to elect to become entitled to basic educational assistance under this chapter.

(Added Pub. L. 104-275, title I, §106(a), Oct. 9, 1996, 110 Stat. 3327; amended Pub. L. 105-114, title IV, §401(c), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 105-368, title II, §203(a), Nov. 11, 1998, 112 Stat. 3326; Pub. L. 106-398, §1 [[div. A], title XVI, §1601], Oct. 30, 2000, 114 Stat. 1654, 1654A-357; Pub. L. 106-419, title I, §104(a)-(c)(1), Nov. 1, 2000, 114 Stat. 1827, 1828; Pub. L. 107-14, §7(e)(1), June 5, 2001, 115 Stat. 33; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 107-330, title III, §308(g)(9), Dec. 6, 2002, 116 Stat. 2829.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (e)(1), is the date of enactment of Pub. L. 106-419, which was approved Nov. 1, 2000.

AMENDMENTS

2002—Subsec. (a)(5). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

Subsec. (e)(2)(B). Pub. L. 107-330 struck out comma after “April”.

2001—Subsec. (b). Pub. L. 107-14 struck out “or (e)” after “subsection (a)” in introductory provisions.

2000—Pub. L. 106-419, §104(c)(1), provided that as of the enactment of Pub. L. 106-419, the amendments made by Pub. L. 106-398, §1 [[div. A], title XVI, §1601], were deemed for all purposes not to have taken effect and that Pub. L. 106-398, §1 [[div. A], title XVI, §1601], ceased to be in effect. See Amendment notes below.

Subsec. (b). Pub. L. 106-419, §104(b), substituted “subsection (a) or (e)” for “subsection (a)” in introductory provisions.

Pub. L. 106-398, §1 [[div. A], title XVI, §1601(b)], which substituted “subsection (a) or (e)” for “subsection (a)” in introductory provisions, was terminated by Pub. L. 106-419, §104(c)(1). See Amendment note above.

Subsec. (e). Pub. L. 106-419, §104(a), added subsec. (e).

Pub. L. 106-398, §1 [[div. A], title XVI, §1601(a)], which added a subsec. (e) substantially identical to the subsec. (e) added by Pub. L. 106-419, §104(a), was terminated by Pub. L. 106-419, §104(c)(1). See Amendment notes above.

1998—Subsec. (a)(3). Pub. L. 105-368 substituted “successfully completed (or otherwise received academic credit for)” for “successfully completed”.

1997—Subsec. (a)(1). Pub. L. 105-114, §401(c)(1), substituted “October 9, 1996,” for “the date of the enactment of the Veterans' Benefits Improvements Act of 1996”.

Subsec. (a)(4). Pub. L. 105-114, §401(c)(2), substituted “after the date on which the individual makes the election described” for “during the one-year period specified”.

Subsec. (a)(5). Pub. L. 105-114, §401(c)(3), substituted “October 9, 1996” for “the date of the enactment of the Veterans' Benefits Improvements Act of 1996”.

EFFECTIVE DATE OF 2002 AMENDMENT

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

EFFECTIVE DATE OF 1998 AMENDMENT

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

TREATMENT OF CERTAIN CONTRIBUTIONS

Pub. L. 107-14, §7(e)(2), June 5, 2001, 115 Stat. 33, provided that: “Any amount collected under section 3018C(b) of title 38, United States Code (whether by reduction in basic pay under paragraph (1) of that section, collection under paragraph (2) of that section, or both), with respect to an individual who enrolled in basic educational assistance under section 3018C(e) of that title, during the period beginning on November 1, 2000, and ending on the date of the enactment of this Act [June 5, 2001], shall be treated as an amount collected with respect to the individual under section 3018C(e)(3)(A) of that title (whether as a reduction in basic pay under clause (i) of that section, a collection under clause (ii) of that section, or both) for basic educational assistance under section 3018C of that title.”

§ 3019. Tutorial assistance

(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492 of this title, subject to the conditions applicable to an eligible veteran under such section.

(b) The amount of such benefits payable under this section may not exceed \$100 per month, for a maximum of twelve months, or until a maximum of \$1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of \$600.

(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of \$600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

(Added Pub. L. 100-689, title I, §107(a)(1), Nov. 18, 1988, 102 Stat. 4167, §1419; renumbered §3019 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 1419 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3492" for "1692".

§ 3020. Authority to transfer unused education benefits to family members for career service members

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

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

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

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

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

(1) To the individual's spouse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) either—

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

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

(h) ADDITIONAL ADMINISTRATIVE MATTERS.—(1) The use of any entitlement to basic educational