

eligibility for such assistance as in effect on the date preceding the date of the enactment of this Act; and “(B) becomes entitled to basic educational assistance under section 3011(a)(2), 3012(a)(2), or 3018(b)(4) of title 38, United States Code, by reason of the amendments made by this section [amending sections 3011, 3012, 3017, and 3018 of this title and section 16132 of Title 10, Armed Forces].”

Pub. L. 106-419, title I, §103(e), Nov. 1, 2000, 114 Stat. 1826, provided that:

“(1) In the case of an individual described in paragraph (2), with respect to the time limitation under section 3031 of title 38, United States Code, for use of eligibility and entitlement of basic educational assistance under chapter 30 of such title, the 10-year period applicable under such section shall begin on the later of—

“(A) the date of the enactment of this Act [Nov. 1, 2000]; or

“(B) the date of the individual’s last discharge or release from active duty.

“(2) An individual referred to in paragraph (1) is an individual who—

“(A) before the date of the enactment of this Act, was not eligible for basic educational assistance under chapter 30 of such title by reason of the requirement of an initial obligated period of active duty as condition of eligibility for such assistance as in effect on the date preceding the date of the enactment of this Act; and

“(B) on or after such date becomes eligible for such assistance by reason of the amendments made by this section [amending sections 3011 to 3013 and 3015 of this title].”

### § 3032. Limitations on educational assistance for certain individuals

(a) In the case of an individual entitled to educational assistance under this chapter who is pursuing a program of education—

- (1) while on active duty; or
- (2) on less than a half-time basis,

the amount of the monthly educational assistance allowance payable to such individual under this chapter is the amount determined under subsection (b) of this section.

(b) The amount of the educational assistance allowance payable to an individual described in subsection (a) of this section is the least of the following: (1) the amount of the educational assistance allowance otherwise payable to such individual under this chapter, (2) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay, or (3) the amount of the charges of the educational institution elected by the individual under section 3014(b)(1) of this title.

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

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

(B) for each of the second six months of the individual’s pursuit of such program, 55 percent of such monthly educational assistance allowance; and

(C) for each of the months following the first 12 months of the individual’s pursuit of such

program, 35 percent of such monthly educational assistance allowance.

(2) In any month in which an individual pursuing a program of education consisting of a program of apprenticeship or other on-job training fails to complete 120 hours of training, the amount of monthly educational assistance allowance payable under this chapter to the individual shall be limited to the same proportion of the applicable rate determined under paragraph (1) of this subsection as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(3)(A) Except as provided in subparagraph (B) of this paragraph, for each month that an individual is paid a monthly educational assistance allowance under this chapter, the individual’s entitlement under this chapter shall be charged at the rate of—

(i) 75 percent of a month in the case of payments made in accordance with paragraph (1)(A) of this subsection;

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

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

(B) Any such charge to the individual’s entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.

(d)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

(B) For purposes of this paragraph, the term “established charge” means the lesser of—

(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

(ii) the actual charge to the individual for such course or courses.

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

(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter.

(e)(1) Notwithstanding subsection (a) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 3034(d) of this title shall be paid an educational assistance allowance under this chapter in the amount equal to 60 percent of the established charges for tuition and fees which

similarly circumstanced nonveterans enrolled in the same flight course are required to pay.

(2) No educational assistance allowance may be paid under this chapter to an individual for any month during which such individual is pursuing a program of education consisting exclusively of flight training until the Secretary has received from that individual and the institution providing such training a certification of the flight training received by the individual during that month and the tuition and other fees charged for that training.

(3) The number of months of entitlement charged in the case of any individual for a program of education described in paragraph (1) of this subsection shall be equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such program by the monthly rate of educational assistance which, except for paragraph (1) of this subsection, such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.

(f)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a licensing or certification test described in section 3452(b) of this title is the lesser of \$2,000 or the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for such licensing or certification test is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance which, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

(3) In no event shall payment of educational assistance under this subsection for such a test exceed the amount of the individual's available entitlement under this chapter.

(g)(1) Subject to paragraph (3), the amount of educational assistance payable under this chapter for a national test for admission or national test providing an opportunity for course credit at institutions of higher learning described in section 3452(b) of this title is the amount of the fee charged for the test.

(2) The number of months of entitlement charged in the case of any individual for a test described in paragraph (1) is equal to the number (including any fraction) determined by dividing the total amount of educational assistance paid such individual for such test by the full-time monthly institutional rate of educational assistance, except for paragraph (1), such individual would otherwise be paid under subsection (a)(1), (b)(1), (d), or (e)(1) of section 3015 of this title, as the case may be.

(3) In no event shall payment of educational assistance under this subsection for a test de-

scribed in paragraph (1) exceed the amount of the individual's available entitlement under this chapter.

(Added Pub. L. 98-525, title VII, §702(a)(1), Oct. 19, 1984, 98 Stat. 2561, §1432; amended Pub. L. 99-576, title III, §301(b), (d)(1), Oct. 28, 1986, 100 Stat. 3267, 3268; Pub. L. 100-689, title I, §§108(a)(2), 111(a)(7)(A), (8), Nov. 18, 1988, 102 Stat. 4169, 4172; Pub. L. 101-237, title IV, §422(a)(2), Dec. 18, 1989, 103 Stat. 2089; Pub. L. 102-16, §10(a)(3), Mar. 22, 1991, 105 Stat. 55; renumbered §3032 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-568, title III, §310(a), Oct. 29, 1992, 106 Stat. 4329; Pub. L. 103-446, title XII, §1201(d)(6), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104-275, title I, §105(a), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 106-419, title I, §122(b)(1), Nov. 1, 2000, 114 Stat. 1833; Pub. L. 107-14, §7(b)(2)(B), June 5, 2001, 115 Stat. 32; Pub. L. 108-454, title I, §106(b)(1), Dec. 10, 2004, 118 Stat. 3602.)

#### AMENDMENTS

- 2004—Subsec. (g). Pub. L. 108-454 added subsec. (g).
- 2001—Subsec. (b). Pub. L. 107-14 substituted "the least of the following:" for "the lesser of" and added cl. (3).
- 2000—Subsec. (f). Pub. L. 106-419 added subsec. (f).
- 1996—Subsecs. (d) to (f). Pub. L. 104-275 redesignated subsecs. (e) and (f) as (d) and (e), respectively, and struck out former subsec. (d) which read as follows:  
 "(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 3015 and section 3022, if applicable, of this title.  
 "(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month."
- 1994—Subsec. (f)(3). Pub. L. 103-446 substituted "(d), or (e)(1)" for "(c), or (d)(1)".
- 1992—Subsec. (f)(1). Pub. L. 102-568, §310(a)(1), struck out "(other than tuition and fees charged for or attributable to solo flying hours)" after "for tuition and fees".
- Subsec. (f)(4). Pub. L. 102-568, §310(a)(2), added par. (4).
- 1991—Pub. L. 102-83, §5(a), renumbered section 1432 of this title as this section.
- Subsec. (d)(1). Pub. L. 102-83, §5(c)(1), substituted "3015" for "1415" and "3022" for "1422".
- Subsec. (f)(1). Pub. L. 102-83, §5(c)(1), substituted "3034(d)" for "1434(d)".
- Subsec. (f)(3). Pub. L. 102-83, §5(c)(1), substituted "3015" for "1415".
- Pub. L. 102-16 substituted "(c), or (d)(1)" for "or (c)".
- 1989—Subsec. (f). Pub. L. 101-237 added subsec. (f).
- 1988—Subsec. (c)(3)(A). Pub. L. 100-689, §111(a)(8)(A), (B), designated existing provision as subpar. (A) and substituted "Except as provided in subparagraph (B) of this paragraph, for" for "For", and redesignated subpars. (A) to (C) as cls. (i) to (iii), respectively.
- Subsec. (c)(3)(B). Pub. L. 100-689, §111(a)(8)(C), added subpar. (B).
- Subsec. (d). Pub. L. 100-689, §108(a)(2), added subsec. (d).
- Subsec. (e). Pub. L. 100-689, §111(a)(7)(A), added subsec. (e).
- 1986—Pub. L. 99-576, §301(d)(1), substituted "Limitations" for "Limitation" in section catchline.
- Subsec. (c). Pub. L. 99-576, §301(b), added subsec. (c).

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-14 effective as if enacted on Nov. 1, 2000, immediately after the enactment of

Pub. L. 106-419, see section 7(b)(3) of Pub. L. 107-14, set out as a note under section 3014 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

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

#### EFFECTIVE DATE OF 1992 AMENDMENT

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

#### EFFECTIVE DATE OF 1989 AMENDMENT

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

#### EFFECTIVE DATE OF 1988 AMENDMENT

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

#### INCREASE IN BENEFIT FOR INDIVIDUALS PURSUING 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.)

#### REFERENCES IN TEXT

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

#### AMENDMENTS

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."

#### 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 "al-