

“(4) HONORABLE SERVICE REQUIREMENT.—The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 4, 2011], and shall apply with respect to discharges and releases from the Armed Forces that occur on or after that date.

“(5) SERVICE IN CONNECTION WITH ATTENDANCE AT COAST GUARD ACADEMY.—The amendment made by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals entering into agreements on service in the Coast Guard on or after that date.”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-32, title X, §1002(d), June 24, 2009, 123 Stat. 1890, provided that:

“(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 3313 and 3321 of this title] shall take effect on August 1, 2009.

“(2) APPLICABILITY.—The Secretary of Veterans Affairs shall begin making payments to individuals entitled to educational assistance by reason of paragraph (9) of section 3311(b) of title 38, United States Code, as added by subsection (a), by not later than August 1, 2010. In the case of an individual entitled to educational assistance by reason of such paragraph for the period beginning on August 1, 2009, and ending on July 31, 2010, the Secretary shall make retroactive payments to such individual for such period by not later than August 1, 2010.”

EFFECTIVE DATE

Section effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

CONSTRUCTION OF COVERED INDIVIDUALS

Pub. L. 115-48, title I, §106(c), Aug. 16, 2017, 131 Stat. 977, provided that: “Section 3311(b)(6) of title 38, United States Code, shall be construed to include an individual who, before November 25, 2015, established eligibility for educational assistance under chapter 1607 of title 10, United States Code, pursuant to section 16163(b) of such title, but lost such eligibility pursuant to section 16167(b) of such title.”

§ 3312. Educational assistance: duration

(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such as-

sistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

(B) failed to receive credit or lost training time toward completion of the individual's approved education, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A), the individual's course pursuit.

(3) PERIOD FOR WHICH PAYMENT NOT CHARGED.—The period for which, by reason of this subsection, educational assistance is not charged against entitlement or counted toward the applicable aggregate period under section 3695 of this title shall not exceed the portion of the period of enrollment in the course or courses from which the individual failed to receive credit or with respect to which the individual lost training time, as determined under paragraph (2)(B).

(Added Pub. L. 110-252, title V, §5003(a)(1), June 30, 2008, 122 Stat. 2362.)

EFFECTIVE DATE

Section effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

§ 3313. Educational assistance: amount; payment

(a) PAYMENT.—The Secretary shall pay to each individual entitled to educational assistance under this chapter who is pursuing an approved program of education (other than a program covered by subsections (e) and (f)) the amounts specified in subsection (c) to meet the expenses of such individual's subsistence, tuition, fees, and other educational costs for pursuit of such program of education.

(b) APPROVED PROGRAMS OF EDUCATION.—A program of education is an approved program of education for purposes of this chapter if the program of education is approved for purposes of chapter 30 (including approval by the State approving agency concerned).

(c) PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED AT INSTITUTIONS OF HIGHER LEARNING ON MORE THAN HALF-TIME BASIS.—The amounts payable under this subsection for pursuit of an approved program of education leading to a degree at an institution of higher learning (as that term is defined in section 3452(f)) are amounts as follows:

(1) In the case of an individual entitled to educational assistance under this chapter by reason of paragraph (1), (2), or (9) of section 3311(b), amounts as follows:

(A) An amount equal to the following:

(i) In the case of a program of education pursued at a public institution of higher

learning, the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—

- (I) any waiver of, or reduction in, tuition and fees; and
- (II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b))) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

(ii) In the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

- (I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—
 - (aa) any waiver of, or reduction in, tuition and fees; and
 - (bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or
- (II) the amount equal to—
 - (aa) for the academic year beginning on August 1, 2011, \$17,500; or
 - (bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

(B) A monthly stipend in an amount as follows:

(i) Except as provided in clauses (ii) and (iii), for each month an individual pursues a program of education on more than a half-time basis, a monthly housing stipend equal to the product of—

- (I) the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the campus of the institution of higher learning where the individual physically participates in a majority of classes, multiplied by
 - (II) the lesser of—
 - (aa) 1.0; or
 - (bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(ii) In the case of an individual pursuing a program of education at a foreign institution of higher learning on more than a half-time basis, for each month the individual pursues the program of education, a monthly housing stipend equal to the product of—

- (I) the national average of the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5, multiplied by
 - (II) the lesser of—
 - (aa) 1.0; or
 - (bb) the number of course hours borne by the individual in pursuit of the program of education, divided by the minimum number of course hours required for full-time pursuit of the program of education, rounded to the nearest multiple of 10.

(iii) In the case of an individual pursuing a program of education solely through distance learning on more than a half-time basis, a monthly housing stipend equal to 50 percent of the amount payable under clause (ii) if the individual were otherwise entitled to a monthly housing stipend under that clause for pursuit of the program of education.

(iv) For the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

- (I) \$1,000, multiplied by
- (II) the fraction which is the portion of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(2) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(3), amounts equal to 90 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(3) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(4), amounts equal to 80 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(4) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(5), amounts equal to 70 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(5) In the case of an individual entitled to educational assistance under this chapter by

reason of section 3311(b)(6), amounts equal to 60 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(6) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(7), amounts equal to 50 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(7) In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph.

(d) FREQUENCY OF PAYMENT.—

(1) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under subsection (c)(1)(A), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(2) MONTHLY PAYMENTS.—Payment of the amount payable under subsection (c)(1)(B), and of similar amounts payable under paragraphs (2) through (7) of subsection (c), for pursuit of a program of education shall be made on a monthly basis.

(3) REGULATIONS.—The Secretary shall prescribe in regulations methods for determining the number of months (including fractions thereof) of entitlement of an individual to educational assistance under this chapter that are chargeable under this chapter for an advance payment of amounts under paragraphs (1) and (2) for pursuit of a program of education on a quarter, semester, term, or other basis.

(e) PROGRAMS OF EDUCATION LEADING TO A DEGREE PURSUED ON ACTIVE DUTY ON MORE THAN HALF-TIME BASIS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education leading to a degree while on active duty.

(2) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to an individual pursuing a program of education leading to a degree while on active duty are as follows:

(A) Subject to subparagraph (C), an amount equal to the lesser of—

(i) in the case of a program of education pursued at a public institution of higher learning, the actual net cost for in-State tuition and fees assessed by the institution for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b))) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees;

(ii) in the case of a program of education pursued at a non-public or foreign institution of higher learning, the lesser of—

(I) the actual net cost for tuition and fees assessed by the institution for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$17,500; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h); or

(iii) the amount of the charges of the educational institution as elected by the individual in the manner specified in section 3014(b)(1).

(B) Subject to subparagraph (C), for the first month of each quarter, semester, or term, as applicable, of the program of education pursued by the individual, a lump sum amount for books, supplies, equipment, and other educational costs with respect to such quarter, semester, or term in the amount equal to—

(i) \$1,000, multiplied by

(ii) the fraction of a complete academic year under the program of education that such quarter, semester, or term constitutes.

(C) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable to the individual pursuant to subparagraphs (A)(i), (A)(ii), and (B) shall be the amounts otherwise determined pursuant to such subparagraphs multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(3) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amount payable under paragraph (2) for pursuit of a program of

education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this subsection, the entitlement of the individual to educational assistance under this chapter shall be charged at the rate of one month for each such month.

(f) PROGRAMS OF EDUCATION PURSUED ON HALF-TIME BASIS OR LESS.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education on half-time basis or less whether a program of education pursued on active duty, a program of education leading to a degree, or a program of education other than a program of education leading to a degree.

(2) AMOUNT OF ASSISTANCE.—The educational assistance payable under this chapter to an individual pursuing a program of education covered by this subsection on half-time basis or less is the amounts as follows:

(A) The amount equal to the lesser of—

(i) the actual net cost for in-State tuition and fees assessed by the institution of higher learning for the program of education after the application of—

(I) any waiver of, or reduction in, tuition and fees; and

(II) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b))) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(ii) the maximum amount that would be payable to the individual for the program of education under paragraph (1)(A) of subsection (c), or under the provisions of paragraphs (2) through (7) of subsection (c) applicable to the individual, for the program of education if the individual were entitled to amounts for the program of education under subsection (c) rather than this subsection.

(B) A stipend in an amount equal to the amount of the appropriately reduced amount of the lump sum amount for books, supplies, equipment, and other educational costs otherwise payable to the individual under subsection (c).

(3) QUARTER, TERM, OR SEMESTER PAYMENTS.—Payment of the amounts payable to an individual under paragraph (2) for pursuit of a program of education on half-time basis or less shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(4) MONTHLY PAYMENTS.—For each month (as determined pursuant to the methods prescribed under subsection (d)(3)) for which amounts are paid an individual under this sub-

section, the entitlement of the individual to educational assistance under this chapter shall be charged at a percentage of a month equal to—

(A) the number of course hours borne by the individual in pursuit of the program of education involved, divided by

(B) the number of course hours for full-time pursuit of such program of education.

(g) PROGRAMS OF EDUCATION OTHER THAN PROGRAMS OF EDUCATION LEADING TO A DEGREE.—

(1) IN GENERAL.—Educational assistance is payable under this chapter for pursuit of an approved program of education other than a program of education leading to a degree at an institution other than an institution of higher learning (as that term is defined in section 3452(f)).

(2) PURSUIT ON HALF-TIME BASIS OR LESS.—The payment of educational assistance under this chapter for pursuit of a program of education otherwise described in paragraph (1) on a half-time basis or less is governed by subsection (f).

(3) AMOUNT OF ASSISTANCE.—The amounts of educational assistance payable under this chapter to an individual entitled to educational assistance under this chapter who is pursuing an approved program of education covered by this subsection are as follows:

(A) In the case of an individual enrolled in a program of education (other than a program described in subparagraphs (B) through (D)) in pursuit of a certificate or other non-college degree, the following:

(i) Subject to clause (iv), an amount equal to the lesser of—

(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b))) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$17,500; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h).

(ii) Except in the case of an individual pursuing a program of education on a half-time or less basis and subject to clause (iv), a monthly housing stipend equal to the product—

(I) of—

(aa) in the case of an individual pursuing resident training, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the campus of the institution of where the individual physically participates in a majority of classes; or

(bb) in the case of an individual pursuing a program of education through distance learning, a monthly amount equal to 50 percent of the amount payable under item (aa), multiplied by

(II) the lesser of—

(aa) 1.0; or

(bb) the number of course hours borne by the individual in pursuit of the program of education involved, divided by the minimum number of course hours required for full-time pursuit of such program of education, rounded to the nearest multiple of 10.

(iii) Subject to clause (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for a partial month) of training pursued for books, supplies, equipment, and other educational costs.

(iv) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the amounts payable pursuant to clauses (i), (ii), and (iii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(B) In the case of an individual pursuing a full-time program of apprenticeship or other on-job training, amounts as follows:

(i) Subject to clauses (iii) and (iv), for each month the individual pursues the program of education, a monthly housing stipend equal to—

(I) during the first six-month period of the program, the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the employer at which the individual pursues such program;

(II) during the second six-month period of the program, 80 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);

(III) during the third six-month period of the program, 60 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I);

(IV) during the fourth six-month period of such program, 40 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I); and

(V) during any month after the first 24 months of such program, 20 percent of the monthly amount of the basic allowance for housing payable as described in subclause (I).

(ii) Subject to clauses (iii) and (iv), a monthly stipend in an amount equal to \$83 for each month (or pro rata amount for each partial month) of training pursued for books¹ supplies, equipment, and other educational costs.

(iii) In the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of sections 3311(b), the amounts payable pursuant to clauses (i) and (ii) shall be the amounts otherwise determined pursuant to such clauses multiplied by the same percentage applicable to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(iv) 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 clauses (i) and (iii) to the individual shall be limited to the same proportion of the applicable rate determined under this subparagraph as the number of hours worked during such month, rounded to the nearest eight hours, bears to 120 hours.

(C) In the case of an individual enrolled in a program of education consisting of flight training (regardless of the institution providing such program of education), an amount equal to—

(i) the lesser of—

(I) the actual net cost for in-State tuition and fees assessed by the institution concerned for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees; or

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$10,000; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent per-

¹ So in original. Probably should be followed by a comma.

centage increase determined under section 3015(h), multiplied by—

(ii) either—

(I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or

(II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(D) In the case of an individual enrolled in a program of education that is pursued exclusively by correspondence (regardless of the institution providing such program of education), an amount equal to—

(i) the lesser of—

(I) the actual net cost for tuition and fees assessed by the institution concerned for the program of education after the application of—

(aa) any waiver of, or reduction in, tuition and fees; and

(bb) any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees.

(II) the amount equal to—

(aa) for the academic year beginning on August 1, 2011, \$8,500; or

(bb) for an academic year beginning on any subsequent August 1, the amount for the previous academic year beginning on August 1 under this subclause, as increased by the percentage increase equal to the most recent percentage increase determined under section 3015(h), multiplied by—

(ii) either—

(I) in the case of an individual entitled to educational assistance by reason of paragraphs (1), (2), or (9) of section 3311(b), 100 percent; or

(II) in the case of an individual entitled to educational assistance by reason of paragraphs (3) through (8) of section 3311(b), the same percentage as would otherwise apply to the monthly amounts payable to the individual under paragraphs (2) through (7) of subsection (c).

(4) FREQUENCY OF PAYMENT.—

(A) QUARTER, SEMESTER, OR TERM PAYMENTS.—Payment of the amounts payable under paragraph (3)(A)(i) for pursuit of a program of education shall be made for the entire quarter, semester, or term, as applicable, of the program of education.

(B) MONTHLY PAYMENTS.—Payment of the amounts payable under paragraphs (3)(A)(ii) and (3)(B)(i) for pursuit of a program of education shall be made on a monthly basis.

(C) LUMP SUM PAYMENTS.—

(i) Payment for the amount payable under paragraphs (3)(A)(iii) and (3)(B)(ii) shall be paid to the individual for the first month of each quarter, semester, or term, as applicable, of the program education pursued by the individual.

(ii) Payment of the amount payable under paragraph (3)(C) for pursuit of a program of education shall be made upon receipt of certification for training completed by the individual and serviced by the training facility.

(D) QUARTERLY PAYMENTS.—Payment of the amounts payable under paragraph (3)(D) for pursuit of a program of education shall be made quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

(5) CHARGE AGAINST ENTITLEMENT FOR CERTIFICATE AND OTHER NON-COLLEGE DEGREE PROGRAMS.—

(A) IN GENERAL.—In the case of amounts paid under paragraph (3)(A)(i) for pursuit of a program of education, the charge against entitlement to educational assistance under this chapter of the individual for whom such payment is made shall be one month for each of—

(i) the amount so paid, divided by

(ii) subject to subparagraph (B), the amount equal to one-twelfth of the amount applicable in the academic year in which the payment is made under paragraph (3)(A)(i)(II).

(B) PRO RATA ADJUSTMENT BASED ON CERTAIN ELIGIBILITY.—If the amount otherwise payable with respect to an individual under paragraph (3)(A)(i) is subject to a percentage adjustment under paragraph (3)(A)(iv), the amount applicable with respect to the individual under subparagraph (A)(ii) shall be the amount otherwise determined pursuant to such subparagraph subject to a percentage adjustment equal to the percentage adjustment applicable with respect to the individual under paragraph (3)(A)(iv).

(h) PAYMENT OF ESTABLISHED CHARGES TO EDUCATIONAL INSTITUTIONS.—Amounts payable under subsections (c)(1)(A) (and of similar amounts payable under paragraphs (2) through (7) of subsection (c)), (e)(2), and (f)(2)(A), and under subparagraphs (A)(i), (C), and (D) of subsection (g)(3), shall be paid directly to the educational institution concerned.

(i) DETERMINATION OF HOUSING STIPEND PAYMENTS FOR ACADEMIC YEARS.—Any monthly housing stipend payable under this section during the academic year beginning on August 1 of a calendar year shall be determined utilizing rates for basic allowances for housing payable under section 403 of title 37 in effect as of January 1 of such calendar year.

(j) DETERMINATION OF MONTHLY HOUSING STIPENDS DURING ACTIVE DUTY SERVICE.—For any month during which an individual who is entitled to a monthly housing stipend under this section is performing active duty service, the Secretary shall determine the amount of such

stipend payable to such individual for such month on a pro rata basis for the period of such month during which the individual is not performing active duty service.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2363; amended Pub. L. 111-32, title X, § 1002(b), June 24, 2009, 123 Stat. 1889; Pub. L. 111-275, title X, § 1001(g)(1)-(3), Oct. 13, 2010, 124 Stat. 2896; Pub. L. 111-377, title I, §§ 102(a), (b), 103(a), (b), 104(a), (b), 105(a)-(c), 106(a), 112(a), Jan. 4, 2011, 124 Stat. 4108-4110, 4112-4117, 4121; Pub. L. 114-58, title VI, § 601(16)-(18), Sept. 30, 2015, 129 Stat. 539; Pub. L. 115-48, title I, §§ 102(b), 105(b), (c)(2), 107(a), 113(a), Aug. 16, 2017, 131 Stat. 975, 977, 985; Pub. L. 115-62, title V, § 501(b)(1), (c)(1), Sept. 29, 2017, 131 Stat. 1165, 1166.)

APPLICABILITY OF AMENDMENT

Amendment of this section by section 107(a) of Pub. L. 115-48 and section 501(b)(1) of Pub. L. 115-62 applicable with respect to enrollment for a quarter, semester, or term, as applicable, commencing on or after Aug. 1, 2018. See 2017 Amendment notes below.

Amendment of this section by section 113(a) of Pub. L. 115-48 and subsec. (j) of this section as amended by section 501(c)(1) of Pub. L. 115-62 applicable with respect to a quarter, semester, or term, as applicable, commencing on or after Aug. 1, 2018. See 2017 Amendment notes below.

AMENDMENT OF SECTION

Pub. L. 115-48, title I, § 102(b), (c), Aug. 16, 2017, 131 Stat. 975, provided that, effective Aug. 1, 2018, subsection (c)(1) of this section is amended by striking "or (9)" and inserting "(9), or (10)".

Pub. L. 115-48, title I, § 105(b), (c)(2), (d), Aug. 16, 2017, 131 Stat. 975, 977, provided that, effective Aug. 1, 2020, this section is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking "(9), or (10)" and inserting "(8), or (9)"; and

(B) by striking paragraph (7);

(2) in subsection (d), by striking "paragraphs (2) through (7)" each place it appears and inserting "paragraphs (2) through (6)";

(3) in subsection (e)(2)(C)—

(A) by striking "paragraphs (3) through (8)" and inserting "paragraphs (3) through (7)"; and

(B) by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (6)";

(4) in subsection (f)(2)(A)(ii), by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (6)";

(5) in subsection (g)(3)—

(A) in subparagraphs (A)(iv) and (B)(iii)—

(i) by striking "paragraphs (3) through (8)" and inserting "paragraphs (3) through (7)"; and

(ii) by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (6)"; and

(B) in subparagraphs (C)(ii) and (D)(ii)—

(i) in subclause (I), by striking "(9)" and inserting "(8)"; and

(ii) in subclause (II)—

(1) by striking "paragraphs (3) through (8)" and inserting "paragraphs (3) through (7)"; and

(II) by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (6)"; and

(6) in subsection (h), by striking "paragraphs (2) through (7)" and inserting "paragraphs (2) through (6)".

See 2017 Amendment notes below.

REFERENCES IN TEXT

Section 401(b) of the Higher Education Act of 1965, referred to in subsecs. (c)(1)(A)(i)(II), (ii)(I)(bb), (e)(2)(A)(i)(II), (ii)(I)(bb), (f)(2)(A)(i)(II), and (g)(3)(A)(i)(I)(bb), (C)(i)(I)(bb), (D)(i)(I)(bb), is classified to section 1070a(b) of Title 20, Education.

AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115-48, § 105(c)(2)(A), substituted "(8), or (9)" for "(9), or (10)".

Pub. L. 115-48, § 102(b), substituted "(9), or (10)" for "or (9)".

Subsec. (c)(1)(B)(i)(I). Pub. L. 115-48, § 107(a), substituted "the campus of the institution of higher learning where the individual physically participates in a majority of classes" for "the institution of higher learning at which the individual is enrolled".

Subsec. (c)(7). Pub. L. 115-48, § 105(b), struck out par. (7) which read as follows: "In the case of an individual entitled to educational assistance under this chapter by reason of section 3311(b)(8), amounts equal to 40 percent of the amounts that would be payable to the individual under paragraph (1) for the program of education if the individual were entitled to amounts for the program of education under paragraph (1) rather than this paragraph."

Subsec. (d)(1), (2). Pub. L. 115-48, § 105(c)(2)(B), substituted "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (e)(2)(C). Pub. L. 115-48, § 105(c)(2)(C), substituted "paragraphs (3) through (7)" for "paragraphs (3) through (8)" and "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (f)(2)(A)(ii). Pub. L. 115-48, § 105(c)(2)(D), substituted "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (g)(3)(A)(ii)(I)(aa). Pub. L. 115-62, § 501(b)(1), substituted "the campus of the institution of where the individual physically participates in a majority of classes" for "the institution at which the individual is enrolled".

Subsec. (g)(3)(A)(iv), (B)(iii). Pub. L. 115-48, § 105(c)(2)(E)(i), (ii), substituted "paragraphs (3) through (7)" for "paragraphs (3) through (8)" and "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (g)(3)(C)(ii). Pub. L. 115-48, § 105(c)(2)(E)(iii), in subcl. (I), substituted "(8)" for "(9)" and in subcl. (II), substituted "paragraphs (3) through (7)" for "paragraphs (3) through (8)" and "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (g)(3)(D)(ii). Pub. L. 115-48, § 105(c)(2)(E)(iv), in subcl. (I), substituted "(8)" for "(9)" and in subcl. (II), substituted "paragraphs (3) through (7)" for "paragraphs (3) through (8)" and "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (h). Pub. L. 115-48, § 105(c)(2)(F), substituted "paragraphs (2) through (6)" for "paragraphs (2) through (7)".

Subsec. (j). Pub. L. 115-62, § 501(c)(1), amended subsec. (j) generally. Prior to amendment, subsec. (j) related to determination of monthly stipends during certain active duty service.

Pub. L. 115-48, § 113(a), added subsec. (j).

2015—Pub. L. 114-58, § 601(16), substituted "1070a(b)" for "1070a" wherever appearing.

Subsec. (e)(2)(A)(iii). Pub. L. 114-58, § 601(17), struck out second period at end.

Subsec. (g)(3)(A)(iii). Pub. L. 114-58, § 601(18), substituted "books," for "books".

2011—Subsec. (b). Pub. L. 111-377, § 105(a), struck out "is offered by an institution of higher learning (as that

term is defined in section 3452(f) and" before "is approved".

Subsec. (c). Pub. L. 111-377, §102(a)(2), amended heading generally. Prior to amendment, heading read as follows: "Amount of Educational Assistance".

Pub. L. 111-377, §102(a)(1)(A), inserted "leading to a degree at an institution of higher learning (as that term is defined in section 3452(f))" after "program of education" in introductory provisions.

Subsec. (c)(1). Pub. L. 111-377, §112(a)(1), which directed amendment identical to amendment by Pub. L. 111-275, §1001(g)(1), could not be executed. See 2010 Amendment note below.

Subsec. (c)(1)(A). Pub. L. 111-377, §102(a)(1)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: "An amount equal to the established charges for the program of education, except that the amount payable under this subparagraph may not exceed the maximum amount of established charges regularly charged in-State students for full-time pursuit of approved programs of education for undergraduates by the public institution of higher learning offering approved programs of education for undergraduates in the State in which the individual is enrolled that has the highest rate of regularly-charged established charges for such programs of education among all public institutions of higher learning in such State offering such programs of education."

Subsec. (c)(1)(B). Pub. L. 111-377, §102(b), redesignated cl. (ii) as (iv), added cls. (i) to (iii), and struck out former cl. (i) which read as follows: "For each month the individual pursues the program of education (other than, in the case of assistance under this section only, a program of education offered through distance learning), a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher learning at which the individual is enrolled."

Subsec. (e). Pub. L. 111-377, §103(b), amended heading generally. Prior to amendment, heading read as follows: "Programs of Education Pursued on Active Duty".

Subsec. (e)(1). Pub. L. 111-377, §103(a)(1), inserted "leading to a degree" after "approved program of education".

Subsec. (e)(2). Pub. L. 111-377, §103(a)(2)(A), (C), substituted "The amounts" for "The amount", inserted "leading to a degree" after "program of education", and substituted "are as follows:" for "is the lesser of—" in introductory provisions.

Subsec. (e)(2)(A). Pub. L. 111-377, §103(a)(2)(C)(ii), inserted subpar. (A) designation and introductory provisions. Former subpar. (A) redesignated (A)(i).

Subsec. (e)(2)(A)(i). Pub. L. 111-377, §103(a)(2)(D), added cl. (i) and struck out former cl. (i) which read as follows: "the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or".

Pub. L. 111-377, §103(a)(2)(B), redesignated subpar. (A) as cl. (i) of subpar. (A).

Subsec. (e)(2)(A)(ii). Pub. L. 111-377, §103(a)(2)(D), added cl. (ii).

Subsec. (e)(2)(A)(iii). Pub. L. 111-377, §112(a)(2), inserted period at end.

Pub. L. 111-377, §103(a)(2)(B), redesignated subpar. (B) of par. (2) as cl. (iii) of subpar. (A).

Subsec. (e)(2)(B), (C). Pub. L. 111-377, §103(a)(2)(E), added subpars. (B) and (C). Former subpar. (B) redesignated (A)(iii).

Subsec. (f)(1). Pub. L. 111-377, §104(a)(1), inserted "whether a program of education pursued on active duty, a program of education leading to a degree, or a program of education other than a program of education leading to a degree" before period at end.

Subsec. (f)(2). Pub. L. 111-377, §104(a)(2), inserted "covered by this subsection" after "program of education" in introductory provisions.

Subsec. (f)(2)(A)(i). Pub. L. 111-377, §104(b), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "the established charges which similarly circumstanced nonveterans enrolled in the program of education involved would be required to pay; or".

Subsec. (g). Pub. L. 111-377, §105(b)(3), added subsec. (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 111-377, §105(c), inserted ", and under subparagraphs (A)(i), (C), and (D) of subsection (g)(3)," after "(f)(2)(A)".

Pub. L. 111-377, §105(b)(1), (2), redesignated subsec. (g) as (h) and struck out former subsec. (h) which defined "established charges" for purposes of this section and provided the basis of determination of established charges.

Subsec. (i). Pub. L. 111-377, §106(a), added subsec. (i). 2010—Subsec. (c)(1). Pub. L. 111-275, §1001(g)(1), substituted "higher learning" for "higher education" wherever appearing.

Subsec. (d)(3). Pub. L. 111-275, §1001(g)(2), substituted "assistance under this chapter" for "assistance this chapter".

Subsec. (e)(2)(B). Pub. L. 111-275, §1001(g)(3), inserted period at end.

2009—Subsec. (c)(1). Pub. L. 111-32 substituted "paragraph (1), (2), or (9) of section 3311(b)" for "section 3311(b)(1) or 3311(b)(2)".

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-62, title V, §501(b)(2), Sept. 29, 2017, 131 Stat. 1165, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to enrollment for a quarter, semester, or term, as applicable, commencing on or after August 1, 2018."

Pub. L. 115-62, title V, §501(c)(2), Sept. 29, 2017, 131 Stat. 1166, provided that: "Such subsection [meaning subsec. (j) of this section], as amended by paragraph (1), shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after August 1, 2018."

Amendment by section 102(b) of Pub. L. 115-48 effective Aug. 1, 2018, see section 102(c) of Pub. L. 115-48, set out as a note under section 3311 of this title.

Amendment by section 105(b), (c)(2) of Pub. L. 115-48 effective Aug. 1, 2020, see section 105(d) of Pub. L. 115-48, set out as a note under section 3311 of this title.

Pub. L. 115-48, title I, §107(b), Aug. 16, 2017, 131 Stat. 977, as amended by Pub. L. 115-62, title V, §501(b)(3), Sept. 29, 2017, 131 Stat. 1166, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to enrollment for a quarter, semester, or term, as applicable, commencing on or after August 1, 2018."

Pub. L. 115-48, title I, §113(b), Aug. 16, 2017, 131 Stat. 985, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after August 1, 2018."

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, §102(c), Jan. 4, 2011, 124 Stat. 4110, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall take effect on August 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.

"(2) STIPEND FOR DISTANCE LEARNING ON MORE THAN HALF-TIME BASIS.—Clause (iii) of section 3313(c)(1)(B) of title 38, United States Code (as added by subsection (b)(2) of this section), shall take effect on October 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education as covered by such clause on or after that date."

Pub. L. 111-377, title I, §103(c), Jan. 4, 2011, 124 Stat. 4112, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this

section] shall take effect on the date that is 60 days after the date of the enactment of this Act [Jan. 4, 2011], and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after such effective date.

“(2) LUMP SUM FOR BOOKS AND OTHER EDUCATIONAL COSTS.—Subparagraph (B) of section 3313(e)(2) of title 38, United States Code (as added by subsection (a)(2)(E) of this section), shall take effect on October 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.”

Pub. L. 111-377, title I, §104(c), Jan. 4, 2011, 124 Stat. 4112, provided that: “The amendments made by this section [amending this section] shall take effect on August 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.”

Pub. L. 111-377, title I, §105(d), Jan. 4, 2011, 124 Stat. 4117, provided that: “The amendments made by this section [amending this section] shall take effect on October 1, 2011, and shall apply with respect to amounts payable for educational assistance for pursuit of programs of education on or after that date.”

Pub. L. 111-377, title I, §106(b), Jan. 4, 2011, 124 Stat. 4118, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on August 1, 2011.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-32 effective Aug. 1, 2009, see section 1002(d)(1) of Pub. L. 111-32, set out as a note under section 3311 of this title.

EFFECTIVE DATE

Section effective Aug. 1, 2009, see section 5003(d) of Pub. L. 110-252, set out as an Effective Date of 2008 Amendment note under section 16163 of Title 10, Armed Forces.

DURATION OF ASSISTANCE

Pub. L. 115-48, title I, §106(d), Aug. 16, 2017, 131 Stat. 977, provided that: “Notwithstanding section 3312 of title 38, United States Code, an individual who establishes eligibility for educational assistance under chapter 33 of such title by crediting towards such chapter service previously credited towards chapter 1607 of title 10, United States Code, is only entitled to a number of months of educational assistance under section 3313 of title 38, United States Code, equal to the number of months of entitlement remaining under chapter 1607 of title 10, United States Code, at the time of conversion to chapter 33 of title 38, United States Code.”

PRESERVATION OF HIGHER RATES FOR TUITION AND FEES FOR PROGRAMS OF EDUCATION AT NON-PUBLIC INSTITUTIONS OF HIGHER LEARNING PURSUED BY INDIVIDUALS ENROLLED IN SUCH PROGRAMS PRIOR TO CHANGE IN MAXIMUM AMOUNT

Pub. L. 112-26, §2, Aug. 3, 2011, 125 Stat. 268, provided that:

“(a) IN GENERAL.—Notwithstanding paragraph (1)(A)(ii) of section 3313(c) of title 38, United States Code (as amended by the Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (Public Law 111-377)), the amount payable under that paragraph (or as appropriately adjusted under paragraphs (2) through (7) of that section) for tuition and fees for pursuit by an individual described in subsection (b) of an approved program of education at a non-public institution of higher learning during the period beginning on August 1, 2011, and ending on July 31, 2014, shall be the greater of—

“(1) \$17,500; or

“(2) the established charges payable for the program of education determined using the table of the Department of Veterans Affairs entitled ‘Post-9/11 GI Bill 2010-2011 Tuition and Fee In-State Maximums’, published October 27, 2010 (75 Fed. Reg. 66193), as if

that table applied to the pursuit of the program of education by that individual during that period.

“(b) COVERED INDIVIDUALS.—An individual described in this subsection is an individual entitled to educational assistance under chapter 33 of title 38, United States Code, who, since January 4, 2011, has been enrolled in the same non-public institution of higher learning in a State in which—

“(1) the maximum amount of tuition per credit in the 2010-2011 academic year, as determined pursuant to the table referred to in subsection (a)(2), exceeded \$700; and

“(2) the combined amount of tuition and fees for full-time attendance in the program of education in such academic year exceeded \$17,500.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘approved program of education’ has the meaning given that term in section 3313(b) of title 38, United States Code.

“(2) The term ‘established charges’, with respect to a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs on the basis of a full academic year) for tuition and fees which similarly circumstanced nonveterans enrolled in the program of education would be required to pay.

“(3) The term ‘institution of higher learning’ has the meaning given that term in section 3452(f) of title 38, United States Code.”

§ 3314. Tutorial assistance

(a) IN GENERAL.—Subject to subsection (b), an individual entitled to educational assistance under this chapter shall also be entitled to benefits provided an eligible veteran under section 3492.

(b) CONDITIONS.—

(1) IN GENERAL.—The provision of benefits under subsection (a) shall be subject to the conditions applicable to an eligible veteran under section 3492.

(2) CERTIFICATION.—In addition to the conditions specified in paragraph (1), benefits may not be provided to an individual under subsection (a) unless the professor or other individual teaching, leading, or giving the course for which such benefits are provided certifies that—

(A) such benefits are essential to correct a deficiency of the individual in such course; and

(B) such course is required as a part of, or is prerequisite or indispensable to the satisfactory pursuit of, an approved program of education.

(c) AMOUNT.—

(1) IN GENERAL.—The amount of benefits described in subsection (a) that are payable under this section may not exceed \$100 per month, for a maximum of 12 months, or until a maximum of \$1,200 is utilized.

(2) AS ADDITIONAL ASSISTANCE.—The amount provided an individual under this subsection is in addition to the amounts of educational assistance paid the individual under section 3313.

(d) NO CHARGE AGAINST ENTITLEMENT.—Any benefits provided an individual under subsection (a) are in addition to any other educational assistance provided the individual under this chapter.

(Added Pub. L. 110-252, title V, §5003(a)(1), June 30, 2008, 122 Stat. 2366.)