

AMENDMENTS

2017—Subsecs. (a)(3), (c). Pub. L. 115-91 inserted “or 373” before “of title 37”.

2006—Subsec. (a)(3). Pub. L. 109-163, § 687(c)(2)(A), added par. (3) and struck out former par. (3) which read as follows: “that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, or fails to fulfill any term or condition prescribed pursuant to clause (4), such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the un-served portion of active duty bears to the total period of active duty such person agreed to serve; and”.

Subsecs. (c) to (h). Pub. L. 109-163, § 687(c)(2)(B)-(D), added subsec. (c), redesignated former subsec. (e) as (d), and struck out former subsecs. (c), (d), and (f) to (h) relating to the obligation to reimburse the United States under an advanced education assistance agreement in subsec. (c), the effect of a discharge in bankruptcy under title 11 in subsec. (d), requirements for providing financial assistance in subsec. (f), failure to complete a period of active duty specified in an agreement in subsec. (g), and modification of agreements by the Secretary concerned in subsec. (h).

1993—Subsecs. (g), (h). Pub. L. 103-160 added subsecs. (g) and (h).

1990—Subsec. (a)(3). Pub. L. 101-510, § 534(1), inserted “or fails to fulfill any term or condition prescribed pursuant to clause (4),” after “agreement.”

Subsec. (f)(1). Pub. L. 101-510, § 534(2), inserted “or fails to fulfill any term or condition prescribed pursuant to clause (4) of such subsection,” after “agreement.”

1987—Subsec. (e). Pub. L. 100-180, § 1231(17), inserted “The term” after each par. designation and revised first word in quotes in each par. to make initial letter of such word lowercase.

1983—Subsec. (c). Pub. L. 98-94, § 1268(10)(A), struck out “of this section” after “subsection (d)” and “subsection (a)”.

Subsec. (d). Pub. L. 98-94, § 1268(10)(A), struck out “of this section” after “subsection (a)”.

Subsec. (e). Pub. L. 98-94, § 1268(10)(B), substituted a colon for a dash after “In this section” preceding par. (1).

Subsec. (f). Pub. L. 98-94, § 1003(b)(1), added subsec. (f).

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title V, § 573(b), Nov. 30, 1993, 107 Stat. 1674, provided that:

“(1) Subsection (g) of section 2005 of title 10, United States Code, as added by subsection (a), shall apply with respect to persons separated from the Armed Forces after the end of the six-month period beginning on the date of the enactment of this Act [Nov. 30, 1993].

“(2) Subsection (h) of such section, as added by subsection (a), shall apply with respect to persons separated from the Armed Forces after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-94, title X, § 1003(b)(2), Sept. 24, 1983, 97 Stat. 657, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to agreements entered into after September 30, 1983.”

SAVINGS PROVISION

For savings provision relating to payment or repayment of any bonus, incentive pay, special pay, or similar pay obligated to be paid before Apr. 1, 2006, under a provision of this section amended by section 687(c) of Pub. L. 109-163, see section 687(f) of Pub. L. 109-163, set out as a note under section 510 of this title.

§ 2006. Department of Defense Education Benefits Fund

(a) There is established on the books of the Treasury a fund to be known as the Department

of Defense Education Benefits Fund (hereinafter in this section referred to as the “Fund”), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance armed forces education liabilities on an actuarially sound basis.

(b) In this section:

(1) The term “armed forces education liabilities” means liabilities of the armed forces for benefits under chapter 30 or 33 of title 38 and for Department of Defense benefits under paragraphs (3) and (4) of section 510(e) and chapters 1606 and 1607 of this title, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy.

(2) The term “normal cost”, with respect to any period of time, means the total of the following:

(A) The present value of the future benefits payable from the Fund for amounts attributable to increased amounts of educational assistance authorized under section 3015(d) of title 38 to persons who were not on active duty on July 1, 1985, and who during such period enter on active duty.

(B) The present value of the future benefits payable from the Fund for amounts attributable to educational assistance authorized under subchapter III of chapter 30 of title 38 to persons who were not on active duty on July 1, 1985, and who during such period—

(i) enter a fourth year of active duty, in the case of persons eligible for basic educational assistance under section 3011 of such title; or

(ii) enter a period of service that will establish entitlement to such educational assistance under section 3021(b) of such title, in the case of persons eligible for basic educational assistance under section 3012 of such title.

(C) The present value of the future Department of Defense benefits payable from the Fund (including funds from the Department in which the Coast Guard is operating) for educational assistance under chapters 1606 and 1607 of this title to persons who during such period become entitled to such assistance.

(D) The present value of future benefits payable from the Fund for the Department of Defense portion of payments of educational assistance under subchapter II of chapter 30 of title 38 attributable to increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of that title during such period.

(E) The present value of future benefits payable from the Fund for educational assistance under paragraphs (3) and (4) of section 510(e) of this title to persons who during such period become entitled to such assistance.

(F) The present value of any future benefits payable from the Fund for amounts attributable to increased amounts of edu-

cational assistance authorized by section 3316 of title 38.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Amounts paid into the Fund by the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating under subsection (f).

(2) Any amount appropriated to the Fund.

(3) Any return on investment of the assets of the Fund.

(d) The Secretary of the Treasury shall transfer from the Fund to the Secretary of Veterans Affairs such amounts as may be necessary to enable the Secretary of Veterans Affairs to make required payments of armed forces education liabilities. The Secretary of the Treasury, the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of Veterans Affairs shall enter into an agreement as to how and when, and the amounts in which, such transfers shall be made. Except for investments under subsection (h), amounts in the Fund may not be used for any purpose other than transfers as described in this subsection.

(e)(1) The Secretary of Defense shall carry out periodic actuarial valuations of the educational programs described in subsection (b)(1).

(2) Based on the most recent such valuation, the Secretary of Defense shall estimate the normal cost for the next fiscal year.

(3) If at the time of any such valuation there has been a change in benefits under an education program described in subsection (b)(1) that has been made since the last such valuation and that increases or decreases the present value of benefits payable from the Fund, the Secretary of Defense shall determine an amortization methodology and schedule for the liquidation of the unfunded liability (or negative unfunded liability) thus created such that the present value of the sum of the amortization payments equals the increase or decrease in the present value of such benefits.

(4) If at the time of any such valuation the Secretary of Defense determines that, based upon changes in actuarial assumptions since the last valuation, there has been an actuarial gain or loss to the Fund, the Secretary shall determine an amortization methodology and schedule for the liquidation of such gain or loss through an increase or decrease in the payments that would otherwise be made to the Fund.

(5) Based on the determinations under paragraphs (2), (3), and (4) the Secretary of Defense shall determine the amount needed to be appropriated to the Department of Defense and the Department in which the Coast Guard is operating for the next fiscal year for payments to be made to the Fund under subsection (f). The President shall include not less than the full amount so determined in the budget transmitted to Congress for the next fiscal year under section 1105 of title 31. The President may comment and make recommendations concerning any such amount.

(6) All determinations under this subsection shall be made using methods and assumptions

approved by the Board of Actuaries (including assumptions of interest rates and inflation) and in accordance with generally accepted actuarial principles and practices.

(f)(1) The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall pay into the Fund each month the amount that, based upon the most recent actuarial valuation of the education programs described in subsection (b)(1), is equal to the actual total normal cost for the preceding month.

(2) The Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating shall pay into the Fund at the beginning of each fiscal year (or as soon thereafter as appropriations are available for such purpose) the sum of the following:

(A) The amount of the payment for that year, if any, for the amortization of any liability to the Fund resulting from a change in benefits, as determined by the Secretary of Defense under subsection (e)(3).

(B) The amount of the payment for that year, if any, for the amortization of any actuarial gain or loss to the Fund, as determined by the Secretary of Defense under subsection (e)(4).

(3) Amounts paid into the Fund under this subsection shall be paid from appropriations available for the pay of members of the armed forces under the jurisdiction of the Secretary concerned.

(g) The Secretary of the Treasury shall invest such portion of the Fund as is not in the judgment of the Secretary required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund, as determined by the Secretary, and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Fund.

(Added Pub. L. 98-525, title VII, §706(a)(1), Oct. 19, 1984, 98 Stat. 2568; amended Pub. L. 100-26, §7(k)(2), Apr. 21, 1987, 101 Stat. 284; Pub. L. 101-189, div. A, title XVI, §1621(a)(2), (6), Nov. 29, 1989, 103 Stat. 1603; Pub. L. 101-510, div. A, title XIII, §1322(a)(2), title XIV, §1484(j)(2), Nov. 5, 1990, 104 Stat. 1671, 1718; Pub. L. 103-337, div. A, title X, §1070(e)(6), Oct. 5, 1994, 108 Stat. 2859; Pub. L. 104-106, div. A, title XV, §§1501(c)(21), 1503(a)(17), Feb. 10, 1996, 110 Stat. 499, 512; Pub. L. 106-65, div. A, title V, §550, Oct. 5, 1999, 113 Stat. 611; Pub. L. 107-107, div. A, title VI, §654(b), Dec. 28, 2001, 115 Stat. 1157; Pub. L. 108-136, div. A, title V, §535(b), Nov. 24, 2003, 117 Stat. 1474; Pub. L. 108-375, div. A, title V, §527(b)(1), Oct. 28, 2004, 118 Stat. 1894; Pub. L. 109-364, div. A, title X, §1071(a)(9), Oct. 17, 2006, 120 Stat. 2398; Pub. L. 110-181, div. A, title IX, §906(b)(2), Jan. 28, 2008, 122 Stat. 277; Pub. L. 111-377, title I, §109(b)(2), Jan. 4, 2011, 124 Stat. 4120; Pub. L. 112-239, div. A, title X, §1076(f)(23), Jan. 2, 2013, 126 Stat. 1953.)

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2013—Subsec. (b)(2)(F). Pub. L. 112-239 redesignated subpar. (E) relating to amounts attributable to in-

creased amounts of educational assistance authorized by section 3316 of title 38 as (F).

2011—Subsec. (b)(1). Pub. L. 111-377, § 109(b)(2)(A), inserted “or 33” after “chapter 30”.

Subsec. (b)(2)(E). Pub. L. 111-377, § 109(b)(2)(B), added subpar. (E) relating to amounts attributable to increased amounts of educational assistance authorized by section 3316 of title 38.

2008—Subsec. (c)(1). Pub. L. 110-181, § 906(b)(2)(A), substituted “subsection (f)” for “subsection (g)”.

Subsec. (e). Pub. L. 110-181, § 906(b)(2)(B), (C), redesignated subsec. (f) as (e) and struck out former subsec. (e) which established in the Department of Defense a Department of Defense Education Benefits Board of Actuaries.

Subsec. (e)(5). Pub. L. 110-181, § 906(b)(2)(D), substituted “subsection (f)” for “subsection (g)”.

Subsec. (f). Pub. L. 110-181, § 906(b)(2)(C), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (f)(2)(A). Pub. L. 110-181, § 906(b)(2)(E)(i), substituted “subsection (e)(3)” for “subsection (f)(3)”.

Subsec. (f)(2)(B). Pub. L. 110-181, § 906(b)(2)(E)(ii), substituted “subsection (e)(4)” for “subsection (f)(4)”.

Subsecs. (g), (h). Pub. L. 110-181, § 906(b)(2)(C), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

2006—Subsec. (b)(1). Pub. L. 109-364 inserted “of this title” after “1607” and struck out “of this title” before period at end.

2004—Subsec. (b)(1). Pub. L. 108-375, § 527(b)(1)(A), substituted “chapters 1606 and 1607, including funds provided by the Secretary of Homeland Security for education liabilities for the Coast Guard when it is not operating as a service in the Department of the Navy” for “chapter 1606”.

Subsec. (b)(2)(C). Pub. L. 108-375, § 527(b)(1)(B), substituted “(including funds from the Department in which the Coast Guard is operating) for educational assistance under chapters 1606 and 1607” for “for educational assistance under chapter 1606”.

2003—Subsec. (b)(1). Pub. L. 108-136, § 535(b)(1), inserted “paragraphs (3) and (4) of section 510(e) and” after “Department of Defense benefits under”.

Subsec. (b)(2)(E). Pub. L. 108-136, § 535(b)(2), added subpar. (E).

2001—Subsec. (b)(2)(D). Pub. L. 107-107 added subpar. (D).

1999—Subsec. (a). Pub. L. 106-65, § 550(1), substituted “armed forces education liabilities” for “Department of Defense education liabilities”.

Subsec. (b)(1). Pub. L. 106-65, § 550(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘Department of Defense education liabilities’ means liabilities of the Department of Defense for benefits under chapter 30 of title 38 and for benefits under chapter 1606 of this title.”

Subsec. (b)(2)(C). Pub. L. 106-65, § 550(3), inserted “Department of Defense” after “future” and substituted “chapter 1606” for “chapter 106”.

Subsec. (c)(1). Pub. L. 106-65, § 550(4), inserted “and the Secretary of the Department in which the Coast Guard is operating” after “Defense”.

Subsec. (d). Pub. L. 106-65, § 550(5), substituted “armed forces” for “Department of Defense” and inserted “the Secretary of the Department in which the Coast Guard is operating,” after “Secretary of Defense,”.

Subsec. (f)(5). Pub. L. 106-65, § 550(6), inserted “and the Department in which the Coast Guard is operating” after “Department of Defense”.

Subsec. (g). Pub. L. 106-65, § 550(7), inserted “and the Secretary of the Department in which the Coast Guard is operating” after “The Secretary of Defense” in pars. (1) and (2) and substituted “concerned” for “of a military department” in par. (3).

1996—Subsec. (b)(1). Pub. L. 104-106, § 1501(c)(21), substituted “chapter 1606 of this title” for “chapter 106 of this title”.

Subsec. (b)(2)(B)(ii). Pub. L. 104-106, § 1503(a)(17), substituted “section 3012 of such title” for “section 1412 of such title”.

1994—Subsec. (b)(2). Pub. L. 103-337 substituted “section 3015(d)”, “section 3011”, and “section 3021(b)” for “section 1415(c)”, “section 1411”, and “section 1421(b)”, respectively.

1990—Subsec. (d). Pub. L. 101-510, § 1484(j)(2), substituted “enable the Secretary of Veterans Affairs” for “enable the Administrator”.

Subsec. (e)(3). Pub. L. 101-510, § 1322(a)(2), substituted “and shall recommend to the President and Congress” for “and report periodically, not less than once every four years, to the President and Congress on the status of the Fund and shall recommend”.

1989—Subsec. (d). Pub. L. 101-189 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs” in first sentence and “Secretary of Veterans Affairs” for “Administrator” in second sentence.

1987—Subsec. (b). Pub. L. 100-26 inserted “The term” after each par. designation and substituted “normal” for “Normal” in par. (2).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, § 109(c), Jan. 4, 2011, 124 Stat. 4120, provided that: “The amendments made by this section [amending this section and section 3316 of Title 38, Veterans’ Benefits] shall take effect on August 1, 2011.”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-106, div. A, title XV, § 1501(c), Feb. 10, 1996, 110 Stat. 498, provided that the amendment made by that section is effective as of Dec. 1, 1994, and as if included as an amendment made by the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as originally enacted.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

FIRST PAYMENT INTO FUND

Pub. L. 98-525, title VII, § 706(b), Oct. 19, 1984, 98 Stat. 2570, directed that first payment into Department of Defense Education Benefits Fund under this section be made not later than three months after Board of Actuaries determined amounts needed to be paid into Fund for that portion of fiscal year 1985 beginning on July 1, 1985, with first payment in a lump sum equal to total of amounts that would have been paid to Fund each month between July 1, 1985, and time such first payment was made.

§ 2006a. Assistance for education and training: availability of certain assistance for use only for certain programs of education

(a) IN GENERAL.—Effective as of August 1, 2014, an individual eligible for assistance under a Department of Defense educational assistance program or authority covered by this section may, except as provided in subsection (b), only use such assistance for educational expenses incurred for a program as follows: