

participant has disenrolled from the program or as provided in section 3224 of this title.

(b) If a participant disenrolls from the program prior to discharge or release from active duty, such participant's contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Secretary of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Secretary and the Secretary of Defense.

(c) If a participant disenrolls from the program after discharge or release from active duty, the participant's contributions shall be refunded within 60 days of receipt of an application for a refund from the participant.

(d) In the event the participant (1) dies while on active duty, (2) dies after discharge or release from active duty, or (3) disenrolls or is disenrolled from the program without having utilized any entitlement, the participant may have accrued under the program, or, in the event the participant utilizes part of such participant's entitlement and disenrolls or is disenrolled from the program, the amount contributed by the Secretary of Defense under the authority of section 3222(c) of this title remaining in the fund shall be refunded to such Secretary.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2395, § 1623; amended Pub. L. 98-160, title VII, § 702(7), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 101-237, title IV, § 423(b)(1)(A), (4)(A), (7), Dec. 18, 1989, 103 Stat. 2092, 2093; renumbered § 3223 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 1623 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "3224" for "1624".

Subsec. (d). Pub. L. 102-83, § 5(c)(1), substituted "3222(c)" for "1622(c)".

1989—Subsec. (b). Pub. L. 101-237, § 423(b)(1)(A), (4)(A), substituted "Secretary" for "Administrator" wherever appearing and inserted "of Defense" after "Secretary" at end.

Subsec. (d). Pub. L. 101-237, § 423(b)(7), inserted "of Defense" after first reference to "Secretary" and substituted "such" for "the" before second reference to "Secretary".

1983—Subsec. (a). Pub. L. 98-160 inserted "of this title" after "section 1624".

Subsec. (d). Pub. L. 98-160 inserted "of this title" after "section 1622(c)".

#### EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as a note under section 3201 of this title.

### § 3224. Death of participant

In the event of a participant's death, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

(1) The beneficiary or beneficiaries designated by such participant under such participant's Servicemembers' Group Life Insurance policy.

(2) The surviving spouse of the participant.

(3) The surviving child or children of the participant, in equal shares.

(4) The surviving parent or parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to such participant's estate.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2395, § 1624; amended Pub. L. 96-466, title IV, § 402, Oct. 17, 1980, 94 Stat. 2201; renumbered § 3224, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-275, title IV, § 405(c)(2), Oct. 9, 1996, 110 Stat. 3340.)

#### AMENDMENTS

1996—Par. (1). Pub. L. 104-275 substituted "Servicemembers' Group" for "Servicemen's Group".

1991—Pub. L. 102-83 renumbered section 1624 of this title as this section.

1980—Pub. L. 96-466 expanded provisions to require payment of a participant's unused contributions to the fund to the surviving spouse, the surviving child or children, or to the surviving parent or parents before payment of such amount to the participant's estate.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-466, title VIII, § 802(d)(2), Oct. 17, 1980, 94 Stat. 2218, provided that: "The amendments made by sections 402 through 406 [amending this section and sections 1622, 1631, and 1641 [now 3222, 3231, and 3241] of this title] shall become effective on October 1, 1980."

#### EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as a note under section 3201 of this title.

### § 3225. Discharge or release under conditions which would bar the use of benefits

If a participant in the program is discharged or released from active duty under dishonorable conditions, such participant is automatically disenrolled and any contributions made by such participant shall be refunded to such participant on the date of such participant's discharge or release from active duty or within 60 days from receipt of notice by the Secretary of such discharge or release, whichever is later.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396, § 1625; amended Pub. L. 101-237, title IV, § 423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered § 3225, Pub. L. 102-83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1625 of this title as this section.

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator".

#### EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as a note under section 3201 of this title.

## SUBCHAPTER III—ENTITLEMENT; DURATION

### § 3231. Entitlement; loan eligibility

(a)(1) Subject to the provisions of section 3695 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or voca-

tional assistance administered by the Department of Veterans Affairs, a participant shall be entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefits).

(2) Except as provided in paragraph (5)(E) of this subsection and in subsection (e) of this section and section 3233 of this title and subject to section 3241 of this title, the amount of the monthly payment to which any eligible veteran is entitled shall be ascertained by (A) adding all contributions made to the fund by the eligible veteran, (B) multiplying the sum by 3, (C) adding all contributions made to the fund for such veteran by the Secretary of Defense, and (D) dividing the sum by the lesser of 36 or the number of months in which contributions were made by such veteran.

(3) Payment of benefits under this chapter may be made only for periods of time during which an eligible veteran is actually enrolled in and pursuing an approved program of education and, except as provided in paragraph (4), only after an eligible veteran has been discharged or released from active duty.

(4) Payment of benefits under this chapter may be made after a participant has completed his or her first obligated period of active duty (which began after December 31, 1976), or 6 years of active duty (which began after December 31, 1976), whichever period is less.

(5)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph—

(i) shall not be charged against the entitlement of any eligible veteran under this chapter; and

(ii) shall not be counted toward the aggregate period for which section 3695 of this title limits an individual's receipt of assistance.

(B) The payment of an educational assistance allowance referred to in subparagraph (A) of this paragraph is any payment of a monthly benefit under this chapter to an eligible veteran for pursuit of a course or courses under this chapter if the Secretary finds that the eligible veteran—

(i) in the case of a person not serving on active duty, had to discontinue such course pursuit as a result of being 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 a person 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

(iii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) or (ii) of this subparagraph, his or her course pursuit.

(C) The period for which, by reason of this subsection, an educational assistance allowance 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 for which the individual failed to receive

credit or with respect to which the individual lost training time, as determined under subparagraph (B)(iii) of this paragraph.

(D) The amount in the fund for each eligible veteran who received a payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall be restored to the amount that would have been in the fund for the veteran if the payment had not been made. For purposes of carrying out the previous sentence, the Secretary of Defense shall deposit into the fund, on behalf of each such veteran, an amount equal to the entire amount of the payment made to the veteran.

(E) In the case of a veteran who discontinues pursuit of a course or courses as described in subparagraph (B) of this paragraph, the formula for ascertaining the amount of the monthly payment to which the veteran is entitled in paragraph (2) of this subsection shall be implemented as if—

(i) the payment made to the fund by the Secretary of Defense under subparagraph (D) of this paragraph, and

(ii) any payment for a course or courses described in subparagraph (B) of this paragraph that was paid out of the fund,

had not been made or paid.

(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate), as authorized by section 3491(a) of this title, during the last six months of such member's first enlistment and at any time thereafter.

(c) When an eligible veteran is pursuing a program of education under this chapter by correspondence, such eligible veteran's entitlement shall be charged at the rate of 1 month's entitlement for each month of benefits paid to the eligible veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

(d)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, local, or other penal institution or correctional facility for conviction of a felony may not exceed the lesser of (A) such amount as the Secretary determines, in accordance with regulations which the Secretary shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 3233 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Secretary) or under any State or local program.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while

residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

(e)(1) Subject to subsection (a)(1) of this section, each individual who is pursuing a program of education consisting exclusively of flight training approved as meeting the requirements of section 3241(b) of this title shall be paid educational assistance 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 payment 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 entitlement of an eligible veteran pursuing a program of education described in paragraph (1) of this subsection shall be charged at the rate of one month for each amount of educational assistance paid which is equal to the monthly benefit otherwise payable to such veteran (computed on the basis of the formula provided in subsection (a)(2) of this section).

(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.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2396, § 1631; amended Pub. L. 96-466, title IV, §§ 403, 404, Oct. 17, 1980, 94 Stat. 2201; Pub. L. 97-35, title XX, §§ 2003(a)(1), 2005(a), Aug. 13, 1981, 95 Stat. 782; Pub. L. 99-576, title III, § 310(b)(1), Oct. 28, 1986, 100 Stat. 3271; Pub. L. 100-689, title I, §§ 108(b)(2), 122, Nov. 18, 1988, 102 Stat. 4170, 4174; Pub. L. 101-237, title IV, § 423(b)(1), (4)(A), Dec. 18, 1989, 103 Stat. 2092; Pub. L. 102-16, § 7(b), Mar. 22, 1991, 105 Stat. 51; renumbered § 3231 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-127, § 2(b), Oct. 10, 1991, 105 Stat. 619; Pub. L. 102-568, title III, § 310(c), Oct. 29, 1992, 106 Stat. 4330; Pub. L. 104-275, title I, § 105(b), Oct. 9, 1996, 110 Stat. 3327; Pub. L. 105-368, title X, § 1005(b)(7), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107-103, title I, § 103(a), (d), Dec. 27, 2001, 115 Stat. 979; Pub. L. 109-461, title X, § 1002(c), Dec. 22, 2006, 120 Stat. 3465.)

#### AMENDMENTS

2006—Subsec. (d)(1). Pub. L. 109-461 substituted "local, or other penal institution or correctional facility" for "or local penal institution".

2001—Subsec. (a)(5)(B)(i). Pub. L. 107-103, § 103(a), substituted "to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10;" for "in connection with the Persian Gulf War, to serve on active duty under section 672(a), (d), or (g), 673, 673b, or 688 of title 10;"

Subsec. (a)(5)(B)(ii). Pub. L. 107-103, § 103(d), struck out "in connection with such War," after "being ordered".

1998—Subsec. (a)(2). Pub. L. 105-368 substituted "subsection (e)" for "subsection (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 benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

"(2) For each month that an individual is paid a monthly benefit payment for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month."

1992—Subsec. (f)(1). Pub. L. 102-568, § 310(c)(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(c)(2), added par. (4). 1991—Pub. L. 102-83, § 5(a), renumbered section 1631 of this title as this section.

Subsec. (a)(1). Pub. L. 102-83, § 5(c)(1), substituted "3695" for "1795".

Subsec. (a)(2). Pub. L. 102-127, § 2(b)(2), inserted "in paragraph (5)(E) of this subsection and" after "Except as provided".

Pub. L. 102-83, § 5(c)(1), substituted "3233" for "1633" and "3241" for "1641".

Pub. L. 102-16, § 7(b)(1), inserted "subsection (f) of this section and" after "Except as provided in".

Subsec. (a)(5). Pub. L. 102-127, § 2(b)(1), added par. (5). Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted "3491(a)" for "1691(a)".

Subsec. (e)(1). Pub. L. 102-83, § 5(c)(1), substituted "3233" for "1633".

Subsec. (f). Pub. L. 102-83, § 5(c)(1), substituted "3241(b)" for "1641(b)" in par. (1).

Pub. L. 102-16, § 7(b)(2), added subsec. (f).

1989—Subsec. (a)(1). Pub. L. 101-237, § 423(b)(1)(B), substituted "Department of Veterans Affairs" for "Veterans' Administration".

Subsec. (a)(2)(C). Pub. L. 101-237, § 423(b)(4)(A), inserted "of Defense" after "Secretary".

Subsec. (e)(1). Pub. L. 101-237, § 423(b)(1)(A), substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (d). Pub. L. 100-689, § 108(b)(2), added subsec. (d).

Subsec. (e). Pub. L. 100-689, § 122, added subsec. (e).

1986—Subsec. (a)(2). Pub. L. 99-576 substituted "Except as provided in section 1633 of this title and subject to section 1641 of this title, the" for "The".

1981—Subsec. (c). Pub. L. 97-35, § 2003(a)(1), struck out applicability to a program of flight training.

Subsec. (d). Pub. L. 97-35, § 2005(a), struck out subsec. (d) which related to eligibility of veterans for loans authorized by subchapter III of chapter 36 of this title.

1980—Subsec. (a)(1). Pub. L. 96-466, § 404, inserted reference to provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration, and substituted reference to part-time benefits, for reference to part-time benefit payments.

Subsec. (b). Pub. L. 96-466, § 403, substituted reference to enrolling in a course, courses, or program of education for the purpose of attaining a secondary school diploma or an equivalency certificate during the last six months of such member's first enlistment and at any time thereafter, for reference to participating in the Predischarge Education Program authorized by subchapter VI of chapter 34 of this title during the last 6 months of such member's first enlistment.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-103 effective Sept. 11, 2001, see section 103(e) of Pub. L. 107-103, set out as a note under section 3013 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-568 applicable to flight training received under this chapter, chapter 30 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 1991 AMENDMENT

Pub. L. 102-16, §7(c), Mar. 22, 1991, 105 Stat. 52, provided that: "The amendments made by this section [amending this section and section 1641 [now 3241] of this title] shall take effect on April 1, 1991."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 108(b)(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.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-35, title XX, §2006, Aug. 13, 1981, 95 Stat. 783, provided that:

"(a) Except as provided in subsection (b), the amendments made by sections 2003 [amending this section and sections 1641, 1662, 1673, 1681, 1682, and 1780 [now 3241, 3462, 3473, 3481, 3482, and 3680] of this title and repealing section 1677 of this title] and 2005 [amending this section and sections 1686 [repealed], 1737 [repealed], and 1798 [now 3698] of this title] shall take effect on October 1, 1981.

"(b) The amendments made by such sections shall not apply to any person receiving educational assistance under section 1677 [now 3477] of title 38, United States Code, as such section was in effect on August 31, 1981, for the pursuit of a program of education (as defined in section 1652(b) [now 3452(b)] of such title) in which such person was enrolled on that date, for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of chapters 34 and 36 of such title, as in effect on that date."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-466 effective Oct. 1, 1980, see section 802(d)(2) of Pub. L. 96-466, set out as a note under section 3224 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1977, see section 406 of Pub. L. 94-502, set out as a note under section 3201 of this title.

**§ 3232. Duration; limitations**

(a)(1) Except as provided in paragraphs (2) and (3), and subject to paragraph (4), of this subsection, educational assistance benefits shall not be afforded an eligible veteran under this chapter more than 10 years after the date of such veteran's last discharge or release from active duty.

(2)(A) If any eligible veteran was prevented from initiating or completing such veteran's chosen program of education during the delimiting period determined under paragraph (1) of this subsection because of a physical or mental disability which was not the result of such veteran's own willful misconduct, such veteran shall, upon application made in accordance with subparagraph (B) of this paragraph, be granted an extension of the applicable delimiting period for such length of time as the Secretary determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education.

(B) An extension of the delimiting period applicable to an eligible veteran may be granted under subparagraph (A) of this paragraph by reason of the veteran's mental or physical disability

only if the veteran submits an application for such extension to the Secretary within one year after (i) the last date of the delimiting period otherwise applicable to the veteran under paragraph (1) of this subsection, or (ii) the termination date of the period of the veteran's mental or physical disability, whichever is later.

(3) When an extension of the applicable delimiting period is granted an eligible veteran under paragraph (2) of this subsection, the delimiting period with respect to such veteran shall again begin to run on the first day after such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations prescribed by the Secretary, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(4) For purposes of paragraph (1) of this subsection, a veteran's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service unless the individual involved is discharged or released for a service-connected disability, for a medical condition which preexisted such service and which the Secretary determines is not service connected, for hardship, or as a result of a reduction in force as described in section 3011(a)(1)(A)(ii)(III) of this title.

(b)(1) In the event that an eligible veteran has not utilized any or all of such veteran's entitlement by the end of the delimiting period applicable to the veteran under subsection (a) of this section and at the end of one year thereafter has not filed a claim for utilizing such entitlement, such eligible veteran is automatically disenrolled.

(2)(A) Any contributions which were made by a veteran disenrolled under paragraph (1) of this subsection and remain in the fund shall be refunded to the veteran after notice of disenrollment is transmitted to the veteran and the veteran applies for such refund.

(B) If no application for refund of contributions under subparagraph (A) of this paragraph is received from a disenrolled veteran within one year after the date the notice referred to in such subparagraph is transmitted to the veteran, it shall be presumed that the veteran's whereabouts is unknown and the funds shall be transferred to the Secretary for payments for entitlement earned under subchapter II of chapter 30.

(c)(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 paid to such individual for such test by the full-time monthly institutional rate of the educational assistance allowance which, except for paragraph (1), such individual would otherwise be paid under this chapter.

(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.