

(2) to a member who fails to participate satisfactorily in required training as a member of the Selected Reserve.

(Added Pub. L. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 330, §2134; amended Pub. L. 98-94, title XII, §1268(14), Sept. 24, 1983, 97 Stat. 707; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; renumbered §16134, Pub. L. 103-337, div. A, title XVI, §1663(b)(2), Oct. 5, 1994, 108 Stat. 3006.)

#### Editorial Notes

##### AMENDMENTS

1994—Pub. L. 103-337 renumbered section 2134 of this title as this section.

1984—Pub. L. 98-525 amended section generally, substituting provisions covering termination of educational assistance for provisions relating to reports to Congress. See section 16137 of this title.

1983—Pub. L. 98-94 struck out provision requiring the first report under this section to be submitted not later than Dec. 31, 1977.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as a note under section 16131 of this title.

#### § 16135. Failure to participate satisfactorily; penalties

(a) PENALTIES.—At the option of the Secretary concerned, a member of the Selected Reserve of an armed force who does not participate satisfactorily in required training as a member of the Selected Reserve during a term of enlistment or other period of obligated service that created entitlement of the member to educational assistance under this chapter, and during which the member has received such assistance, may—

(1) be ordered to active duty for a period of two years or the period of obligated service the person has remaining under section 16132 of this title, whichever is less; or

(2) be subject to the repayment provisions under section 303a(e) or 373 of title 37.

(b) EFFECT OF REPAYMENT.—Any repayment under section 303a(e) or 373 of title 37 shall not affect the period of obligation of a member to serve as a Reserve in the Selected Reserve.

(Added Pub. L. 95-79, title IV, §402(a), July 30, 1977, 91 Stat. 330, §2135; amended Pub. L. 95-485, title IV, §402(b), Oct. 20, 1978, 92 Stat. 1613; Pub. L. 96-342, title IX, §906(b), Sept. 8, 1980, 94 Stat. 1117; Pub. L. 98-525, title VII, §705(a)(1), Oct. 19, 1984, 98 Stat. 2566; Pub. L. 100-689, title I, §111(b)(6), Nov. 18, 1988, 102 Stat. 4173; renumbered §16135 and amended Pub. L. 103-337, div. A, title XVI, §1663(b)(2), (6), Oct. 5, 1994, 108 Stat. 3006, 3007; Pub. L. 104-106, div. A, title XV, §1501(b)(35), Feb. 10, 1996, 110 Stat. 498; Pub. L. 107-314, div. A, title VI, §642, Dec. 2, 2002, 116 Stat. 2577; Pub. L. 109-163, div. A, title VI, §687(c)(12), Jan. 6, 2006, 119 Stat. 3335; Pub. L. 115-91, div. A, title VI, §618(a)(1)(N), Dec. 12, 2017, 131 Stat. 1426.)

#### Editorial Notes

##### AMENDMENTS

2017—Subsecs. (a)(2), (b). Pub. L. 115-91 inserted “or 373” before “of title 37”.

2006—Pub. L. 109-163 reenacted section catchline without change and amended text generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to penalties for failure of a member of the Selected Reserve of the Ready Reserve of an armed force to participate satisfactorily in required training.

2002—Subsec. (c). Pub. L. 107-314 added subsec. (c).

1996—Subsec. (b)(1)(A). Pub. L. 104-106 substituted “16131(a)” for “2131(a)”.

1994—Pub. L. 103-337, §1663(b)(2), renumbered section 2135 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 103-337, §1663(b)(6)(A), substituted “16132” for “2132”.

Subsec. (b)(1)(A). Pub. L. 103-337, §1663(b)(6)(B), which directed substitution of “section 16132(a)” for “section 2132(a)”, could not be executed because “section 2132(a)” does not appear in subsec. (b)(1)(A).

1988—Subsec. (a)(1). Pub. L. 100-689, §111(b)(6)(A), inserted “, and during which the member has received such assistance,” after “chapter”.

Subsec. (b)(1)(A). Pub. L. 100-689, §111(b)(6)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “the number of months of obligated service remaining under the agreement entered into under section 2132(a)(3) divided by the original number of months of such obligation; and”.

1984—Pub. L. 98-525 amended section generally, substituting provisions relating to the failure to participate satisfactorily and penalties for provisions which had designated Sept. 30, 1985, as the termination date for enlistments qualifying for educational assistance.

1980—Pub. L. 96-342 substituted “1985” for “1980”.

1978—Pub. L. 95-485 substituted “1980” for “1978”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of this title.

##### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of this title.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-525 effective July 1, 1985, applicable only to members of the Armed Forces who qualify for educational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as a note under section 16131 of this title.

##### 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.

#### § 16136. Administration of program

(a) Educational assistance under this chapter shall be provided through the Department of Veterans Affairs, under agreements to be entered into by the Secretary of Defense, and by the Secretary of Homeland Security, with the Secretary of Veterans Affairs. Such agreements shall include administrative procedures to en-

sure the prompt and timely transfer of funds from the Secretary concerned to the Department of Veterans Affairs for the making of payments under this chapter.

(b) Except as otherwise provided in this chapter, the provisions of sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term “eligible veteran” and the term “a person”, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this chapter to refer to a person eligible for educational assistance under this chapter.

(c) The Secretary of Veterans Affairs may approve the pursuit of flight training (in addition to a course of flight training that may be approved under section 3680A(b) of title 38) by an individual entitled to educational assistance under this chapter if—

(1) such training is generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation;

(2) the individual possesses a valid private pilot certificate and meets, on the day the individual begins a course of flight training, the medical requirements necessary for a commercial pilot certificate; and

(3) the flight school courses meet Federal Aviation Administration standards for such courses and are approved by the Federal Aviation Administration and the State approving agency.

(Added Pub. L. 98–525, title VII, § 705(a)(1), Oct. 19, 1984, 98 Stat. 2567, § 2136; amended Pub. L. 101–189, div. A, title VI, §§ 642(c), 645(a)(1), Nov. 29, 1989, 103 Stat. 1457, 1458; Pub. L. 101–237, title IV, §§ 405(d)(3), 422(b)(1), Dec. 18, 1989, 103 Stat. 2081, 2089; Pub. L. 101–510, div. A, title XIV, § 1484(j)(3), Nov. 5, 1990, 104 Stat. 1718; Pub. L. 102–16, § 10(b), Mar. 22, 1991, 105 Stat. 56; Pub. L. 102–568, title III, §§ 313(a)(6), 319, 320(a)(3), Oct. 29, 1992, 106 Stat. 4333, 4335, 4336; renumbered § 16136, Pub. L. 103–337, div. A, title XVI, § 1663(b)(2), Oct. 5, 1994, 108 Stat. 3006; Pub. L. 103–446, title VI, § 601(c), Nov. 2, 1994, 108 Stat. 4670; Pub. L. 105–368, title II, § 204(b), Nov. 11, 1998, 112 Stat. 3327; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

### Editorial Notes

#### AMENDMENTS

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

1998—Subsec. (c)(2). Pub. L. 105–245 substituted “pilot certificate” for “pilot’s license” in two places and inserted “, on the day the individual begins a course of flight training,” after “meets”.

1994—Pub. L. 103–337 renumbered section 2136 of this title as this section.

Subsec. (c). Pub. L. 103–446 struck out “(1)” after “(c)”, redesignated subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out former par. (2) which read as follows: “This subsection shall not apply to a course of flight training that commences on or after October 1, 1994.”

1992—Subsec. (b). Pub. L. 102–568, § 320(a)(3), substituted “sections 3470, 3471, 3474, 3476, 3482(g), 3483, and

3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692)” for “sections 1670, 1671, 1673, 1674, 1676, 1682(g), 1683, and 1685 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1786(a), 1787, and 1792)”.

Pub. L. 102–568, § 319, struck out “1780(c),” after “exception of sections”.

Subsec. (c)(1). Pub. L. 102–568, § 313(a)(6), substituted “section 3680A(b) of title 38” for “section 1673(b) of title 38”.

1991—Subsec. (b). Pub. L. 102–16 struck out “1434(b), 1663,” before “1670,” and “1780(g),” before “1786(a),”.

1990—Subsec. (a). Pub. L. 101–510 substituted “Department of Veterans Affairs” for “Veterans’ Administration” in two places.

1989—Subsec. (a). Pub. L. 101–189, § 645(a)(1), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

Subsec. (b). Pub. L. 101–237, § 405(d)(3), inserted reference to section 1685 of title 38.

Pub. L. 101–189, § 642(c), amended first sentence generally and substituted “and the term ‘a person’, as used” for “, as used” in second sentence. Prior to amendment, first sentence read as follows: “Except as otherwise provided in this chapter, the provisions of sections 1663, 1670, 1671, 1673, 1674, 1676, 1682(g), and 1683 of chapter 34 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 1780(a)(5), 1780(b), 1786, 1787(b)(1), and 1792) shall be applicable to the provision of educational assistance under this chapter.”

Subsec. (c). Pub. L. 101–237, § 422(b)(1), added subsec. (c).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2002 AMENDMENT

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

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–368, title II, § 204(c), Nov. 11, 1998, 112 Stat. 3327, provided that: “The amendments made by this section [amending this section and sections 3034 and 3241 of Title 38, Veterans’ Benefits] shall apply with respect to courses of flight training beginning on or after October 1, 1998.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–446 effective Oct. 1, 1994, see section 601(d) of Pub. L. 103–446, set out as a note under section 3034 of Title 38, Veterans’ Benefits.

#### EFFECTIVE DATE OF 1989 AMENDMENTS

Pub. L. 101–237, title IV, § 405(e), Dec. 18, 1989, 103 Stat. 2082, provided that: “The amendments made by this section [amending this section and section 1685 [now 3485] of Title 38, Veterans’ Benefits] shall take effect on May 1, 1990, and shall apply to services performed on or after that date.”

Amendment by section 422(b)(1) of Pub. L. 101–237 effective Sept. 30, 1990, see section 422(d) of Pub. L. 101–237, set out as a note under section 16131 of this title.

Amendment by section 642(c) of Pub. L. 101–189 applicable with respect to any person who after Sept. 30, 1990, meets the requirements set forth in section 2132(a)(1)(A) or (B) [16132(a)(1)(A), (B)] of this title, see section 642(d) of Pub. L. 101–189, set out as a note under section 16131 of this title.

#### EFFECTIVE DATE

Section effective July 1, 1985, applicable only to members of the Armed Forces who qualify for edu-

ational assistance under this chapter on or after such date, see section 705(b) of Pub. L. 98-525, set out as an Effective Date of 1984 Amendment note under section 16131 of this title.

#### SAVINGS PROVISION

Pub. L. 102-568, title III, § 313(b), Oct. 29, 1992, 106 Stat. 4333, provided that: “The amendments made by paragraphs (2) through (6) of subsection (a) of this section [enacting section 3680A of Title 38, Veterans’ Benefits, amending this section and sections 3034 and 3241 of Title 38, and repealing section 3473 of Title 38] shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section [Oct. 29, 1992] 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 title 38, United States Code, or title 10, United States Code, in effect on that date.”

#### § 16137. Repealed. Pub. L. 112-81, div. A, title X, § 1061(29)(A), Dec. 31, 2011, 125 Stat. 1584]

Section, added Pub. L. 98-525, title VII, § 705(a)(1), Oct. 19, 1984, 98 Stat. 2567, § 2137; renumbered § 16137, Pub. L. 103-337, div. A, title XVI, § 1663(b)(2), Oct. 5, 1994, 108 Stat. 3006; amended Pub. L. 104-106, div. A, title X, § 1077, Feb. 10, 1996, 110 Stat. 451; Pub. L. 106-65, div. A, title V, § 548(a), Oct. 5, 1999, 113 Stat. 609, required biennial report on the operation of the educational assistance program.

#### CHAPTER 1607—EDUCATIONAL ASSISTANCE FOR RESERVE COMPONENT MEMBERS SUPPORTING CONTINGENCY OPERATIONS AND CERTAIN OTHER OPERATIONS

Sec.	Purpose.
16161.	Purpose.
16162.	Educational assistance program.
16162a.	Accelerated payment of educational assistance.
16163.	Eligibility for educational assistance.
16163a.	Authority to transfer unused education benefits to family members.
16164.	Time limitation for use of entitlement.
16165.	Termination of assistance.
16166.	Administration of program.
16167.	Sunset.

#### Editorial Notes

##### AMENDMENTS

2015—Pub. L. 114-92, div. A, title V, § 555(b), Nov. 25, 2015, 129 Stat. 824, added item 16167.

2008—Pub. L. 110-252, title V, § 5006(e)(3), June 30, 2008, 122 Stat. 2386, added item 16163a.

Pub. L. 110-181, div. A, title V, § 528(b)(2), Jan. 28, 2008, 122 Stat. 109, added item 16162a.

#### § 16161. Purpose

The purpose of this chapter is to provide educational assistance to members of the reserve components called or ordered to active service in response to a war or national emergency declared by the President or the Congress, in recognition of the sacrifices that those members make in answering the call to duty.

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1890.)

#### § 16162. Educational assistance program

(a) PROGRAM ESTABLISHMENT.—The Secretary of each military department, under regulations

prescribed by the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall establish and maintain a program as prescribed in this chapter to provide educational assistance to members of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned.

(b) AUTHORIZED EDUCATION PROGRAMS.—Educational assistance may be provided under this chapter for pursuit of any program of education that is an approved program of education for purposes of chapter 30 of title 38.

(c) BENEFIT AMOUNT.—(1) The educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned, through the Secretary of Veterans Affairs, an educational assistance allowance to each member entitled to educational assistance under this chapter who is pursuing a program of education authorized under subsection (b).

(2) The educational assistance allowance provided under this chapter shall be based on the applicable percent under paragraph (4) to the applicable rate provided under section 3015 of title 38 for a member whose entitlement is based on completion of an obligated period of active duty of three years.

(3) The educational assistance allowance provided under this section for a person who is undertaking a program for which a reduced rate is specified in chapter 30 of title 38, that rate shall be further adjusted by the applicable percent specified in paragraph (4).

(4) The adjusted educational assistance allowance under paragraph (2) or (3), as applicable, shall be—

(A) 40 percent in the case of a member of a reserve component who performed active service for 90 consecutive days but less than one continuous year;

(B) 60 percent in the case of a member of a reserve component who performed active service for one continuous year but less than two continuous years; or

(C) 80 percent in the case of a member of a reserve component who performed active service for—

(i) two continuous years or more; or

(ii) an aggregate of three years or more.

(d) MAXIMUM MONTHS OF ASSISTANCE.—(1) Subject to section 3695 of title 38, the maximum number of months of educational assistance that may be provided to any member under this chapter is 36 (or the equivalent thereof in part-time educational assistance).

(2)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) shall not—

(i) be charged against the entitlement of any individual under this chapter; or

(ii) be counted toward the aggregate period for which section 3695 of title 38 limits an individual’s receipt of assistance.

(B) The payment of the educational assistance allowance referred to in subparagraph (A) is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter if the Secretary of Veterans Affairs finds that the individual—