

(Added Pub. L. 110-389, title III, §334(a), Oct. 10, 2008, 122 Stat. 4172.)

## CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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## Editorial Notes

### AMENDMENTS

1991—Pub. L. 102-83, §5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1601 to 1643 as 3201 to 3243, respectively.

Pub. L. 102-16, §5(b), Mar. 22, 1991, 105 Stat. 50, struck out item 1642 "Reporting requirements".

1988—Pub. L. 100-689, title I, §107(b)(2), Nov. 18, 1988, 102 Stat. 4169, added item 1634.

1986—Pub. L. 99-576, title III, §310(b)(3), Oct. 28, 1986, 100 Stat. 3272, added item 1633.

1982—Pub. L. 97-295, §4(36), Oct. 12, 1982, 96 Stat. 1307, inserted "the" after "bar" in item 1625.

### SUBCHAPTER I—PURPOSE; DEFINITIONS

#### § 3201. Purpose

It is the purpose of this chapter (1) to provide educational assistance to those men and women who enter the Armed Forces after December 31, 1976, and before July 1, 1985, (2) to assist young men and women in obtaining an education they might not otherwise be able to afford, and (3) to promote and assist the all volunteer military program of the United States by attracting qualified men and women to serve in the Armed Forces.

(Added Pub. L. 94-502, title IV, §404, Oct. 15, 1976, 90 Stat. 2393, §1601; amended Pub. L. 99-576, title III, §309(a)(1), Oct. 28, 1986, 100 Stat. 3270; renumbered §3201, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

## Editorial Notes

### PRIOR PROVISIONS

Prior section 3201 was renumbered section 5501 of this title.

### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1601 of this title as this section.

1986—Pub. L. 99-576 inserted "and before July 1, 1985,".

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE

Section 406 of title IV of Pub. L. 94-502 provided that: "The provisions of this title [enacting this chapter, amending sections 1652, 1661, and 1662 [now 3452, 3461, and 3462] of this title and section 725s of former Title 31, Money and Finance, and enacting provisions set out as a note under section 3221 of this title] shall become effective on January 1, 1977."

### SHORT TITLE

For short titles of Pub. L. 94-502, and title IV of Pub. L. 94-502, which enacted this chapter, see Short Title of 1976 Amendments note set out under section 101 of this title.

### ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

Pub. L. 99-576, title III, §309(c), (d), Oct. 28, 1986, 100 Stat. 3270, provided that:

"(c) EXCEPTION.—Notwithstanding the amendments made by subsection (a) [amending this section and sections 1602 and 1621 [now 3202 and 3221] of this title], any individual on active duty in the Armed Forces who was eligible on June 30, 1985, to enroll in the program established by chapter 32 of title 38, United States Code, may enroll, before April 1, 1987, in such program.

"(d) NOTICE REQUIREMENT.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall carry out activities for the purpose of notifying, to the maximum extent feasible, individuals described in subsection (c) of the opportunity provided by such subsection."

## § 3202. Definitions

For the purposes of this chapter—

(1)(A) The term "eligible veteran" means any veteran who is not eligible for educational assistance under chapter 34 of this title and who (i) entered military service on or after January 1, 1977, and before July 1, 1985, served on active duty for a period of more than 180 days commencing on or after January 1, 1977, and was discharged or released therefrom under conditions other than dishonorable, or (ii) entered military service on or after January 1, 1977, and before July 1, 1985, and was discharged or released from active duty after January 1, 1977, for a service-connected disability.

(B) The requirement of discharge or release, prescribed in subparagraph (A), shall be waived in the case of any participant who 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.

(C) For the purposes of subparagraphs (A) and (B), the term "active duty" does not include any period during which an individual (i) was assigned full time by the Armed Forces to a civilian institution for a course of education which was substantially the same as established courses offered to civilians, (ii) served as a cadet or midshipman at one of the service academies, or (iii) served under the provisions of section 511(d)<sup>1</sup> of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Navy Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve.

(D)(i) The requirement of ineligibility for educational assistance under chapter 34 of this

<sup>1</sup> See References in Text note below.

title, prescribed in subparagraph (A), shall be waived in the case of a veteran described in division (ii) of this subparagraph who elects to receive benefits under this chapter instead of assistance under such chapter 34. A veteran who makes such an election shall be ineligible for assistance under such chapter. Such an election is irrevocable.

(ii) A veteran referred to in division (i) of this subparagraph is a veteran who before January 1, 1977, performed military service described in subparagraph (C)(iii), is entitled under section 3452(a)(3)(C) of this title to have such service considered to be "active duty" for the purposes of chapter 34 of this title, and is eligible for assistance under such chapter only by reason of having such service considered to be active duty.

(2) The term "program of education"—

(A) has the meaning given such term in section 3452(b) of this title, and

(B) includes (i) a full-time program of apprenticeship or other on-job training approved as provided in clause (1) or (2), as appropriate, of section 3687(a) of this title, and (ii) in the case of an individual who is not serving on active duty, a cooperative program (as defined in section 3482(a)(2) of this title).

(3) The term "participant" is a person who is participating in the educational benefits program established under this chapter.

(4) The term "educational institution" has the meaning given such term in section 3452(c) of this title.

(5) The term "training establishment" has the meaning given such term in section 3452(e) of this title.

(Added Pub. L. 94-502, title IV, § 404, Oct. 15, 1976, 90 Stat. 2394, § 1602; amended Pub. L. 96-466, title IV, § 401, Oct. 17, 1980, 94 Stat. 2201; Pub. L. 98-223, title II, § 203(a), Mar. 2, 1984, 98 Stat. 41; Pub. L. 99-576, title III, §§ 309(a)(2), 310(a), Oct. 28, 1986, 100 Stat. 3270, 3271; Pub. L. 100-689, title I, § 108(b)(1), Nov. 18, 1988, 102 Stat. 4169; Pub. L. 102-54, § 14(c)(6), June 13, 1991, 105 Stat. 285; renumbered § 3202 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 109-163, div. A, title V, § 515(e)(3), Jan. 6, 2006, 119 Stat. 3236.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 511 of title 10, referred to in par. (1)(C)(iii), was renumbered section 12103 of Title 10, Armed Forces, by Pub. L. 103-337, div. A, title XVI, § 1662(b)(2), Oct. 5, 1994, 108 Stat. 2989.

#### PRIOR PROVISIONS

Prior sections 3202 to 3205 were renumbered sections 5502 to 5505 of this title, respectively, and section 5505 was subsequently repealed by Pub. L. 103-446, title XII, § 1201(g)(4)(A), Nov. 2, 1994, 108 Stat. 4687.

#### AMENDMENTS

2006—Par. (1)(C)(iii). Pub. L. 109-163 substituted "Navy Reserve" for "Naval Reserve".

1991—Pub. L. 102-83, § 5(a), renumbered section 1602 of this title as this section.

Par. (1)(A). Pub. L. 102-54 inserted comma after last reference to "1977".

Par. (1)(D)(ii). Pub. L. 102-83, § 5(c)(1), substituted "3452(a)(3)(C)" for "1652(a)(3)(C)".

Par. (2). Pub. L. 102-83, § 5(c)(1), substituted "3452(b)" for "1652(b)" in subpar. (A) and "3687(a)" for "1787(a)" and "3482(a)(2)" for "1682(a)(2)" in subpar. (B).

Pars. (4), (5). Pub. L. 102-83, § 5(c)(1), substituted "3452(c)" for "1652(c)" in par. (4) and "3452(e)" for "1652(e)" in par. (5).

1988—Par. (2)(B). Pub. L. 100-689 inserted designation "(i)" after "includes" and added cl. (ii).

1986—Par. (1)(A). Pub. L. 99-576, § 309(a)(2), inserted "and before July 1, 1985," in two places and substituted "commencing on or after January 1, 1977" for "commencing on or after such date" and "released from active duty after January 1, 1977" for "released from active duty after such date".

Par. (2). Pub. L. 99-576, § 310(a)(1), added par. (2) and struck out former par. (2) which read as follows: "The terms 'program of education' and 'educational institution' shall have the same meaning ascribed to them in sections 1652(b) and 1652(c), respectively, of this title."

Pars. (4), (5). Pub. L. 99-576, § 310(a)(2), added pars. (4) and (5).

1984—Par. (1)(D). Pub. L. 98-223 added subpar. (D).

1980—Par. (1)(A). Pub. L. 96-466 inserted "who is not eligible for educational assistance under chapter 34 of this title and" after "any veteran" and struck out "initially" before "entered military service" in two places.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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 1980 AMENDMENT

Pub. L. 96-466, title VIII, § 802(d)(1), Oct. 17, 1980, 94 Stat. 2218, provided that: "The amendments made by section 401 [amending this section] shall take effect as of January 1, 1977."

#### 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.

#### 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.

#### ENROLLMENT IN PROGRAM BEFORE APRIL 1, 1987

For provisions for continued eligibility for enrollment in the program established by this chapter until Apr. 1, 1987, of individuals on active duty in the Armed Forces who were eligible therefor on June 30, 1985, and requiring notice of such continued eligibility to affected individuals, see section 309(c), (d) of Pub. L. 99-576, set out as a note under section 3201 of this title.

### SUBCHAPTER II—ELIGIBILITY; CONTRIBUTIONS; AND MATCHING FUND

#### § 3221. Eligibility

(a) Each person entering military service on or after January 1, 1977, and before July 1, 1985, shall have the right to enroll in the educational benefits program provided by this chapter (hereinafter in this chapter referred to as the "program" except where the text indicates otherwise) at any time during such person's service on active duty before July 1, 1985. When a person