

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 educational 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 para-

graphs (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.

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—

(i) had to discontinue such course pursuit as a result of being ordered to serve on active duty under section 12301(a), 12301(d), 12301(g), 12302, or 12304 of this title; and

(ii) 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), the individual's 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 title 38 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)(ii).

(e) **AVAILABILITY OF ASSISTANCE FOR LICENSING AND CERTIFICATION TESTS.**—The provisions of section 16131(j) of this title shall apply to the provision of educational assistance under this chapter, except that, in applying such section under this chapter, the reference to subsection (b) in paragraph (2) of such section is deemed to be a reference to subsection (c) of this section.

(f) **CONTRIBUTIONS FOR INCREASED AMOUNT OF EDUCATIONAL ASSISTANCE.**—(1)(A) Any individual eligible for educational assistance under this section may contribute amounts for purposes of receiving an increased amount of educational assistance as provided for in paragraph (2).

(B) An individual covered by subparagraph (A) may make the contributions authorized by that subparagraph at any time while a member of a reserve component, but not more frequently than monthly.

(C) The total amount of the contributions made by an individual under subparagraph (A) may not exceed \$600. Such contributions shall be made in multiples of \$20.

(D) Contributions under this subsection shall be made to the Secretary concerned. Such Secretary shall deposit any amounts received as contributions under this subsection into the Treasury as miscellaneous receipts.

(2) Effective as of the first day of the enrollment period following the enrollment period in which an individual makes contributions under paragraph (1), the monthly amount of educational assistance allowance applicable to such individual under this section shall be the monthly rate otherwise provided for under subsection (c) increased by—

(A) an amount equal to \$5 for each \$20 contributed by such individual under paragraph (1) for an approved program of education pursued on a full-time basis; or

(B) an appropriately reduced amount based on the amount so contributed as determined under regulations that the Secretary of Veterans Affairs shall prescribe, for an approved program of education pursued on less than a full-time basis.

(Added Pub. L. 108-375, div. A, title V, § 527(a), Oct. 28, 2004, 118 Stat. 1890; amended Pub. L. 109-163, div. A, title V, § 539(b), Jan. 6, 2006, 119 Stat. 3250; Pub. L. 110-181, div. A, title V, § 528(c), Jan. 28, 2008, 122 Stat. 109.)

#### Editorial Notes

##### AMENDMENTS

2008—Subsec. (c)(4)(C). Pub. L. 110-181, § 528(c)(1), substituted “for—” for “for two continuous years or more.” and added cls. (i) and (ii).

Subsec. (f). Pub. L. 110-181, § 528(c)(2), added subsec. (f).

2006—Subsec. (e). Pub. L. 109-163 added subsec. (e).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-163 applicable to a licensing or certification test administered on or after Jan. 6, 2006, see section 539(c) of Pub. L. 109-163, set out as a note under section 16131 of this title.

#### § 16162a. Accelerated payment of educational assistance

(a) **PAYMENT ON ACCELERATED BASIS.**—The educational assistance allowance payable under section 16162 of this title with respect to an eligible member described in subsection (b) may, upon the election of such eligible member, be paid on an accelerated basis in accordance with this section.

(b) **ELIGIBLE MEMBERS.**—An eligible member described in this subsection is a member of a reserve component entitled to educational assistance under this chapter who is—

(1) enrolled in an approved program of education not exceeding two years in duration and not leading to an associate, bachelors, masters, or other degree, subject to subsection (g); and

(2) charged tuition and fees for the program of education that, when divided by the number of months (and fractions thereof) in the enrollment period, exceeds the amount equal to 200 percent of the monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title.

(c) **AMOUNT OF ACCELERATED PAYMENT.**—(1) The amount of the accelerated payment of educational assistance payable with respect to an eligible member making an election under subsection (a) for a program of education shall be the lesser of—

(A) the amount equal to 60 percent of the established charges for the program of education; or

(B) the aggregate amount of educational assistance allowance to which the member remains entitled under this chapter at the time of the payment.

(2)(A) In this subsection, except as provided in subparagraph (B), the term “established charges”, in the case of a program of education, means the actual charges (as determined pursuant to regulations prescribed by the Secretary of Veterans Affairs) for tuition and fees which similarly circumstanced individuals who are not eligible for benefits under this chapter and who are enrolled in the program of education would be required to pay. Established charges shall be determined on the following basis:

(i) In the case of an individual enrolled in a program of education offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the term, quarter, or semester.

(ii) In the case of an individual enrolled in a program of education not offered on a term, quarter, or semester basis, the tuition and fees charged the individual for the entire program of education.

(B) In this subsection, the term “established charges” does not include any fees or payments attributable to the purchase of a vehicle.

(3) The educational institution providing the program of education for which an accelerated payment of educational assistance allowance is elected by an eligible member under subsection (a) shall certify to the Secretary of Veterans Affairs the amount of the established charges for the program of education.

(d) **TIME OF PAYMENT.**—An accelerated payment of educational assistance allowance made with respect to an eligible member under this section for a program of education shall be made not later than the last day of the month immediately following the month in which the Secretary of Veterans Affairs receives a certification from the educational institution regarding—

(1) the member’s enrollment in and pursuit of the program of education; and

(2) the amount of the established charges for the program of education.

(e) **CHARGE AGAINST ENTITLEMENT.**—(1) Except as provided in paragraph (2), for each accelerated payment of educational assistance allowance made with respect to an eligible member under this section, the member’s entitlement to educational assistance under this chapter shall be charged the number of months (and any fraction thereof) determined by dividing the amount of the accelerated payment by the full-time monthly rate of educational assistance allowance otherwise payable with respect to the member under section 16162 of this title as of the beginning date of the enrollment period for the program of education for which the accelerated payment is made.

(2) If the monthly rate of educational assistance allowance otherwise payable with respect to an eligible member under section 16162 of this title increases during the enrollment period of a program of education for which an accelerated payment of educational assistance allowance is made under this section, the charge to the member’s entitlement to educational assistance under this chapter shall be determined by prorating the entitlement chargeable, in the manner provided for under paragraph (1), for the periods covered by the initial rate and increased rate, respectively, in accordance with regulations prescribed by the Secretary of Veterans Affairs.

(f) **REGULATIONS.**—The Secretary of Veterans Affairs shall prescribe regulations to carry out this section. The regulations shall include requirements, conditions, and methods for the request, issuance, delivery, certification of receipt and use, and recovery of overpayment of an accelerated payment of educational assistance allowance under this section. The regulations may include such elements of the regulations prescribed under section 3014A of title 38 as the Secretary of Veterans Affairs considers appropriate for purposes of this section.

(g) **LIMITATION.**—The aggregate amount of educational assistance payable under this section in any fiscal year for enrollments covered by subsection (b)(1) may not exceed \$3,000,000.

(Added Pub. L. 110-181, div. A, title V, § 528(b)(1), Jan. 28, 2008, 122 Stat. 107.)