

(B) indicating whether it is necessary for the purposes of maintaining adequate levels of well-qualified active-duty personnel in the Armed Forces to continue to offer the opportunity for educational assistance under this chapter to individuals who have not yet entered active-duty service; and

(C) describing the efforts under section 3323(b) of this title to inform members of the Armed Forces of the active duty service requirements for entitlement to educational assistance under this chapter and the results from such efforts; and

(2) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary of Defense considers appropriate.

(C) CONTENTS OF SECRETARY OF VETERANS AFFAIRS REPORTS.—The Secretary shall include in each report submitted under this section—

(1) information concerning the level of utilization of educational assistance and of expenditures under this chapter and under chapter 35 of this title;

(2) appropriate student outcome measures, such as the number of credit hours, certificates, degrees, and other qualifications earned by beneficiaries under this chapter and chapter 35 of this title during the academic year covered by the report;

(3) the information received by the Secretary under section 3326 of this title; and

(4) such recommendations for administrative and legislative changes regarding the provision of educational assistance to members of the Armed Forces and veterans, and their dependents, as the Secretary considers appropriate.

(d) TERMINATION.—No report shall be required under this section after January 1, 2021.

(Added Pub. L. 112-154, title IV, § 402(a)(1), Aug. 6, 2012, 126 Stat. 1188; amended Pub. L. 114-315, title IV, § 404(a)(1), Dec. 16, 2016, 130 Stat. 1554.)

Editorial Notes

AMENDMENTS

2016—Subsec. (c)(3), (4). Pub. L. 114-315 added par. (3) and redesignated former par. (3) as (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-315, title IV, § 404(c), Dec. 16, 2016, 130 Stat. 1554, provided that: “The amendments made by this section [enacting section 3326 of this title and amending this section] shall take effect on the date that is 1 year after the date of the enactment of this Act [Dec. 16, 2016].”

DEADLINE FOR SUBMITTAL OF FIRST REPORT

Pub. L. 112-154, title IV, § 402(a)(3), Aug. 6, 2012, 126 Stat. 1189, provided that: “The first reports required under section 3325 of title 38, United States Code, as added by paragraph (1), shall be submitted by not later than November 1, 2013.”

§ 3326. Report on student progress

(a) SUBMITTAL OF INFORMATION BY EDUCATIONAL INSTITUTIONS.—As a condition of ap-

proval under chapter 36 of this title of a course offered by an educational institution (as defined in section 3452 of this title), each year, each educational institution (as so defined) that received a payment in that year on behalf of an individual entitled to educational assistance under this chapter shall submit to the Secretary such information regarding the academic progress of the individual as the Secretary may require.

(b) REPORTS TO CONGRESS.—Not later than March 1 of each year, the Secretary shall submit to Congress a report that includes a summary of the information provided by educational institutions under subsection (a) for the calendar year preceding the year during which such report is submitted.

(Added Pub. L. 114-315, title IV, § 404(a)(2), Dec. 16, 2016, 130 Stat. 1554; amended Pub. L. 115-48, title I, § 114, Aug. 16, 2017, 131 Stat. 985.)

Editorial Notes

AMENDMENTS

2017—Pub. L. 115-48 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 1 year after Dec. 16, 2016, see section 404(c) of Pub. L. 114-315, set out as an Effective Date of 2016 Amendment note under section 3325 of this title.

§ 3327. Election to receive educational assistance

(a) INDIVIDUALS ELIGIBLE TO ELECT PARTICIPATION IN POST-9/11 EDUCATIONAL ASSISTANCE.—An individual may elect to receive educational assistance under this chapter if such individual—

(1) as of August 1, 2009—

(A) is entitled to basic educational assistance under chapter 30 of this title and has used, but retains unused, entitlement under that chapter;

(B) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10 and has used, but retains unused, entitlement under the applicable chapter;

(C) is entitled to basic educational assistance under chapter 30 of this title but has not used any entitlement under that chapter;

(D) is entitled to educational assistance under chapter 107, 1606, or 1607 of title 10 but has not used any entitlement under such chapter;

(E) is a member of the Armed Forces who is eligible for receipt of basic educational assistance under chapter 30 of this title and is making contributions toward such assistance under section 3011(b) or 3012(c) of this title; or

(F) is a member of the Armed Forces who is not entitled to basic educational assistance under chapter 30 of this title by reason of an election under section 3011(c)(1) or 3012(d)(1) of this title; and

(2) as of the date of the individual's election under this paragraph, meets the requirements for entitlement to educational assistance under this chapter.

(b) CESSATION OF CONTRIBUTIONS TOWARD GI BILL.—Effective as of the first month beginning on or after the date of an election under subsection (a) of an individual described by paragraph (1)(E) of that subsection, the obligation of the individual to make contributions under section 3011(b) or 3012(c) of this title, as applicable, shall cease, and the requirements of such section shall be deemed to be no longer applicable to the individual.

(c) REVOCATION OF REMAINING TRANSFERRED ENTITLEMENT.—

(1) ELECTION TO REVOKE.—If, on the date an individual described in paragraph (1)(A) or (1)(C) of subsection (a) makes an election under that subsection, a transfer of the entitlement of the individual to basic educational assistance under section 3020 of this title is in effect and a number of months of the entitlement so transferred remain unutilized, the individual may elect to revoke all or a portion of the entitlement so transferred that remains unutilized.

(2) AVAILABILITY OF REVOKED ENTITLEMENT.—Any entitlement revoked by an individual under this subsection shall no longer be available to the dependent to whom transferred, but shall be available to the individual instead for educational assistance under chapter 33 of this title in accordance with the provisions of this section.

(3) AVAILABILITY OF UNREVOKED ENTITLEMENT.—Any entitlement described in paragraph (1) that is not revoked by an individual in accordance with that paragraph shall remain available to the dependent or dependents concerned in accordance with the current transfer of such entitlement under section 3020 of this title.

(d) POST-9/11 EDUCATIONAL ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2) and except as provided in subsection (e), an individual making an election under subsection (a) shall be entitled to educational assistance under this chapter in accordance with the provisions of this chapter, instead of basic educational assistance under chapter 30 of this title, or educational assistance under chapter 107, 1606, or 1607 of title 10, as applicable.

(2) LIMITATION ON ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual making an election under subsection (a) who is described by paragraph (1)(A) of that subsection, the number of months of entitlement of the individual to educational assistance under this chapter shall be the number of months equal to—

(A) the number of months of unused entitlement of the individual under chapter 30 of this title, as of the date of the election, plus

(B) the number of months, if any, of entitlement revoked by the individual under subsection (c)(1).

(e) CONTINUING ENTITLEMENT TO EDUCATIONAL ASSISTANCE NOT AVAILABLE UNDER POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—In the event educational assistance to which an individual making an election under subsection (a) would be entitled under chapter 30 of this title, or chapter 107,

1606, or 1607 of title 10, as applicable, is not authorized to be available to the individual under the provisions of this chapter, the individual shall remain entitled to such educational assistance in accordance with the provisions of the applicable chapter.

(2) CHARGE FOR USE OF ENTITLEMENT.—The utilization by an individual of entitlement under paragraph (1) shall be chargeable against the entitlement of the individual to educational assistance under this chapter at the rate of 1 month of entitlement under this chapter for each month of entitlement utilized by the individual under paragraph (1) (as determined as if such entitlement were utilized under the provisions of chapter 30 of this title, or chapter 107, 1606, or 1607 of title 10, as applicable).

(f) ADDITIONAL POST-9/11 ASSISTANCE FOR MEMBERS HAVING MADE CONTRIBUTIONS TOWARD GI BILL.—

(1) ADDITIONAL ASSISTANCE.—In the case of an individual making an election under subsection (a) who is described by subparagraph (A), (C), or (E) of paragraph (1) of that subsection, the amount of educational assistance payable to the individual under this chapter as a monthly stipend payable under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7)¹ of that section (as applicable), shall be the amount otherwise payable as a monthly stipend under the applicable paragraph increased by the amount equal to—

(A) the total amount of contributions toward basic educational assistance made by the individual under section 3011(b) or 3012(c) of this title, as of the date of the election, multiplied by

(B) the fraction—

(i) the numerator of which is—

(I) the number of months of entitlement to basic educational assistance under chapter 30 of this title remaining to the individual at the time of the election; plus

(II) the number of months, if any, of entitlement under chapter 30 of this title revoked by the individual under subsection (c)(1); and

(ii) the denominator of which is 36 months.

(2) MONTHS OF REMAINING ENTITLEMENT FOR CERTAIN INDIVIDUALS.—In the case of an individual covered by paragraph (1) who is described by subsection (a)(1)(E), the number of months of entitlement to basic educational assistance remaining to the individual for purposes of paragraph (1)(B)(i)(II) shall be 36 months.

(3) TIMING OF PAYMENT.—The amount payable with respect to an individual under paragraph (1) shall be paid to the individual together with the last payment of the monthly stipend payable to the individual under paragraph (1)(B) of section 3313(c) of this title, or under paragraphs (2) through (7)¹ of that section (as applicable), before the exhaustion of

¹ See References in Text note below.

the individual's entitlement to educational assistance under this chapter.

(g) CONTINUING ENTITLEMENT TO ADDITIONAL ASSISTANCE FOR CRITICAL SKILLS OR SPECIALTY AND ADDITIONAL SERVICE.—An individual making an election under subsection (a)(1) who, at the time of the election, is entitled to increased educational assistance under section 3015(d) of this title, or section 16131(i) of title 10, or supplemental educational assistance under subchapter III of chapter 30 of this title, shall remain entitled to such increased educational assistance or supplemental educational assistance in the utilization of entitlement to educational assistance under this chapter, in an amount equal to the quarter, semester, or term, as applicable, equivalent of the monthly amount of such increased educational assistance or supplemental educational assistance payable with respect to the individual at the time of the election.

(h) ALTERNATIVE ELECTION BY SECRETARY.—

(1) IN GENERAL.—In the case of an individual who, on or after January 1, 2017, submits to the Secretary an election under this section that the Secretary determines is clearly against the interests of the individual, or who fails to make an election under this section, the Secretary may make an alternative election on behalf of the individual that the Secretary determines is in the best interests of the individual.

(2) NOTICE.—If the Secretary makes an election on behalf of an individual under this subsection, the Secretary shall notify the individual by not later than seven days after making such election and shall provide the individual with a 30-day period, beginning on the date of the individual's receipt of such notice, during which the individual may modify or revoke the election made by the Secretary on the individual's behalf. The Secretary shall include, as part of such notice, a clear statement of why the alternative election made by the Secretary is in the best interests of the individual as compared to the election submitted by the individual. The Secretary shall provide the notice required under this paragraph by electronic means whenever possible.

(i) IRREVOCABILITY OF ELECTIONS.—An election under subsection (a) or (c)(1) is irrevocable.

(Added Pub. L. 114-315, title IV, §405(a), Dec. 16, 2016, 130 Stat. 1555.)

Editorial Notes

REFERENCES IN TEXT

Paragraph (7) of section 3313(c) of this title, referred to in subsec. (f)(1), (3), was repealed by Pub. L. 115-48, title I, §105(b), Aug. 16, 2017, 131 Stat. 975.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in Pub. L. 110-252, title V, §5003(c), June 30, 2008, 122 Stat. 2375, which was formerly set out as a note under section 3301 of this title prior to repeal by Pub. L. 114-315, title IV, §405(c), Dec. 16, 2016, 130 Stat. 1558.

CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

SUBCHAPTER I—PURPOSE—DEFINITIONS

- Sec. 3451. Purpose.
- 3452. Definitions.

SUBCHAPTER II—ELIGIBILITY AND ENTITLEMENT

- 3461. Eligibility; entitlement; duration.
- 3462. Time limitations for completing a program of education.

SUBCHAPTER III—ENROLLMENT

- 3470. Selection of program.
- 3471. Applications; approval.
- [3473. Repealed.]
- 3474. Discontinuance for unsatisfactory conduct or progress.
- 3476. Education outside the United States.

SUBCHAPTER IV—PAYMENTS TO ELIGIBLE VETERANS; VETERAN-STUDENT SERVICES

- 3481. Educational assistance allowance.
- 3482. Computation of educational assistance allowances.
- 3483. Approval of courses.
- 3484. Apprenticeship or other on-job training; correspondence courses.
- 3485. Work-study allowance.

SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

- 3490. Purpose.
- 3491. Elementary and secondary education and preparatory educational assistance.
- 3492. Tutorial assistance.
- 3493. Effect on educational entitlement.

Editorial Notes

AMENDMENTS

1992—Pub. L. 102-568, title III, §313(a)(3)(B), Oct. 29, 1992, 106 Stat. 4332, struck out item 3473 "Disapproval of enrollment in certain courses".

1991—Pub. L. 102-83, §5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 1651 to 1693 as 3451 to 3493, respectively.

Pub. L. 102-16, §2(b)(1)(B), Mar. 22, 1991, 105 Stat. 49, struck out item 1663 "Educational and vocational counseling".

1989—Pub. L. 101-237, title IV, §405(d)(4)(B), Dec. 18, 1989, 103 Stat. 2082, substituted "Work-study allowance" for "Veteran-student services" in item 1685.

1988—Pub. L. 100-689, title I, §§107(c)(2)(B), 124(c)(1), Nov. 18, 1988, 102 Stat. 4169, 4175, substituted "Tutorial assistance" for "Special supplementary assistance" in item 1692 and struck out items 1682A "Accelerated payment of educational assistance allowances" and 1686 "Education loans".

1981—Pub. L. 97-35, title XX, §2003(b)(3)(B), Aug. 13, 1981, 95 Stat. 782, struck out item 1677 "Flight training".

1980—Pub. L. 96-466, title VI, §601(a)(2), Oct. 17, 1980, 94 Stat. 2208, struck out "SUBCHAPTER VI—PREDISCHARGE EDUCATION PROGRAM" heading and items 1695 "Purpose; definition", 1696 "Payment of educational assistance allowance", 1697 "Educational and vocational guidance", and 1698 "Coordination with and participation by Department of Defense".

1977—Pub. L. 95-202, title II, §201(c)(1), Nov. 23, 1977, 91 Stat. 1438, added item 1682A.

1976—Pub. L. 94-502, title II, §210(4), Oct. 15, 1976, 90 Stat. 2388, renumbered item 1697A as 1698.

1974—Pub. L. 93-508, title III, §302(b), Dec. 3, 1974, 88 Stat. 1591, added item 1686.

1972—Pub. L. 92-540, title IV, §404(a), Oct. 24, 1972, 86 Stat. 1090, inserted in Subchapter IV heading "VET-