

courses being pursued with assistance under title 38, United States Code, that occur on or after June 1, 1989.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise provided, see section 2006 of Pub. L. 97-35, set out as a note under section 3231 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by sections 341 and 342 of Pub. L. 96-466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(c) of Pub. L. 96-466, set out as a note under section 3452 of this title.

Amendment by sections 601(c), (d) and 602(c) of Pub. L. 96-466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96-466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 505 of Pub. L. 94-502 effective Dec. 1, 1976, and amendment by sections 506 and 513(a)(5), (6), (11), (12) of Pub. L. 94-502 effective Oct. 15, 1976, see section 703(b), (c) of Pub. L. 94-502, set out as an Effective Date note under section 3693 of this title.

Pub. L. 94-502, title V, §513(b), Oct. 15, 1976, 90 Stat. 2404, provided that: “The amendments made by paragraphs (7), (8), (9), and (10) of subsection (a) [amending this section] shall take effect June 1, 1977, and shall apply with respect to educational assistance allowances and subsistence allowances paid under title 38, United States Code, for months after May 1977.”

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-508 effective Dec. 3, 1974, see section 503 of Pub. L. 93-508, set out as a note under section 3452 of this title.

EFFECTIVE DATE

Pub. L. 92-540, title VI, §603, Oct. 24, 1972, 86 Stat. 1099, provided that:

“(a) The prepayment provisions of subsection (e) of section 1780 [now 3680] of title 38, United States Code (as added by section 201 of this Act), shall become effective on November 1, 1972.

“(b) The advance payment provisions of section 1780 [now 3680] of title 38, United States Code (as added by section 201 of this Act), shall become effective on August 1, 1973, or at such time prior thereto as the Administrator of Veterans' Affairs shall specify in a certification filed with the Committees on Veterans' Affairs of the Congress.”

PAYMENT OF ALLOWANCES TO VETERANS ENROLLED IN EDUCATIONAL INSTITUTIONS CLOSED FOR EMERGENCY SITUATIONS

Pub. L. 116-140, §4, Apr. 28, 2020, 134 Stat. 632, as amended by Pub. L. 116-315, title I, §§1107(b), 1108, Jan. 5, 2021, 134 Stat. 4966, which temporarily authorized payment of allowances to eligible veterans or persons enrolled in educational institutions or training establishments that were closed or suspended due to emergency situations, was repealed by Pub. L. 117-333, §6(b), Jan. 5, 2023, 136 Stat. 6129. See subsec. (h) of this section.

RESTORATION OF ENTITLEMENT: PAYMENT OF SUBSISTENCE ALLOWANCES

Pub. L. 116-140, §7(b), Apr. 28, 2020, 134 Stat. 634, which provided that the Secretary of Veterans Affairs was to apply subsec. (a)(2)(B) of this section as if certain amendments had been made, was repealed by Pub. L. 116-315, title I, §1007(c), Jan. 5, 2021, 134 Stat. 4940. See 2021 Amendment note above.

PROMPT PAYMENTS

Pub. L. 115-407, title I, §103(b), Dec. 31, 2018, 132 Stat. 5370, provided that:

“(1) IN GENERAL.—The Secretary of Veterans Affairs shall take such actions as may be necessary to ensure that the Secretary makes a payment to an educational institution on behalf of an individual, who is entitled to educational assistance under chapter 31 or 33 of title 38, United States Code, and who is using such assistance to pursue a program of education at the educational institution, not later than 60 days after the date on which the educational institution certifies to the Secretary the applicable tuition and fees for the individual.

“(2) SEMIANNUAL REPORTS.—Not later than May 1 and October 1 of each year, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a semiannual report summarizing any cases in which the Secretary failed to make a payment described in paragraph (1) within the period set forth in such paragraph and an explanation for each delayed disbursement of payment.”

STUDY OF TUITION ASSISTANCE ALLOWANCE PROGRAM ABUSES

Pub. L. 93-508, title I, §105, Dec. 3, 1974, 88 Stat. 1581, authorized the Administrator to study the potential administrative difficulties and abuses that would arise if some form of variable tuition assistance allowance program were enacted after consideration of past difficulties and abuses which arose after the Second World War and such difficulties and abuses as were being experienced by the Veterans' Administration in managing certain current programs, and to report to the Congress and the President his findings and recommendations for legislative and administrative action no later than one year after Dec. 3, 1974.

Executive Documents

EX. ORD. NO. 12020. PAYMENT OF BENEFITS WHEN SCHOOLS ARE TEMPORARILY CLOSED TO CONSERVE ENERGY

Ex. Ord. No. 12020, Nov. 8, 1977, 42 F.R. 58509, provided: By virtue of the authority vested in me by clause (A) of Section 1780(a) [now 3680(a)] of Title 38 of the United States Code, and as President of the United States of America, in order to establish a national policy in regard to payment of educational benefits to veterans and their dependents during periods in which schools are closed to conserve energy, it is hereby ordered as follows:

SECTION 1. Whenever an educational institution submits evidence which satisfies the Administrator of Veterans' Affairs that energy consumption will be abnormally high during the winter months or that available energy supplies will be inadequate to meet the needs of the school, and that, in the interest of energy conservation, the institution plans to close between semesters or terms for a period not to exceed 45 days, the Administrator may continue to pay monthly educational assistance benefits to veterans and eligible persons enrolled in such schools. Such authority may be exercised only once during any 12-month period with respect to any educational institution.

SEC. 2. The Administrator shall advise veterans and other eligible persons of the effect of accepting educational assistance benefits under the provisions of Section 1 of this Order on their period of entitlement.

JIMMY CARTER.

§3680A. Disapproval of enrollment in certain courses

(a) The Secretary shall not approve the enrollment of an eligible veteran in any of the following:

(1) Any bartending course or personality development course.

(2) Any sales or sales management course which does not provide specialized training within a specific vocational field.

(3) Any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation.

(4) Any independent study program except an independent study program (including such a program taken over open circuit television) that—

(A) is accredited by an accrediting agency or association recognized by the Secretary of Education under subpart 2 of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099b);

(B) leads to—

(i) a standard college degree;

(ii) a certificate that reflects educational attainment offered by an institution of higher learning; or

(iii) a certificate that reflects completion of a course of study offered by—

(I) an area career and technical education school (as defined in subparagraphs (C) and (D) of section 3(3) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(3))) that provides education at the postsecondary level; or

(II) a postsecondary vocational institution (as defined in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c))) that provides education at the postsecondary level; and

(C) in the case of a program described in subparagraph (B)(iii)—

(i) provides training aligned with the requirements of employers in the State or local area where the program is located, which may include in-demand industry sectors or occupations; and

(ii) provides a student, upon completion of the program, with a recognized postsecondary credential that is recognized by employers in the relevant industry, which may include a credential recognized by industry or sector partnerships in the State or local area where the industry is located; and

(iii) meets such content and instructional standards as may be required to comply with the criteria under section 3676(c)(14) and (15) of this title.

(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio.

(d)(1) The Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which

the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 1606 of title 10, except with respect to tuition, fees, or other charges that are paid under a payment plan at an educational institution that the Secretary determines has a history of offering payment plans that are completed not later than 180 days after the end of the applicable term, quarter, or semester.

(2) The Secretary may waive the requirements of paragraph (1), in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government.

(3)(A) The Secretary shall establish a process by which an educational institution may request a review of a determination that the educational institution does not meet the requirements of paragraph (1).

(B) An educational institution that requests a review under subparagraph (A)—

(i) shall request the review not later than 30 days after the start of the term, quarter, or semester for which the determination described in subparagraph (A) applies; and

(ii) may include any information that the educational institution believes the Department should have taken into account when making the determination, including with respect to any mitigating circumstances.

(C) The Under Secretary of Benefits shall issue an initial decision for each review requested under subparagraph (A) by not later than 30 days after the date of the request, to the extent feasible.

(D) An educational institution may request the Secretary to review the decision by the Under Secretary under subparagraph (C). The Secretary shall review each decision so requested and, pursuant to such review, shall issue a final decision sustaining, modifying, or overturning the decision by the Under Secretary.

(E) The Secretary shall carry out this paragraph without regard to any review process carried out by the Secretary under chapter 51 of this title.

(4) Paragraph (1) shall not apply to any course offered by an educational institution if—

(A) the majority of courses offered by the educational institution are approved under section 3672 or 3675 of this title; and

(B) the total number of veterans and persons receiving assistance under this title or under chapter 1606 of title 10 who are enrolled in such institution equals 35 percent or less of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution).

(5)(A) Paragraph (1) shall not apply to any course offered by an educational institution if—

(i) the majority of courses offered by the educational institution are approved under section 3676 of this title; and

(ii) the total number of veterans and persons receiving assistance under this title or under

chapter 1606 of title 10 who are enrolled in such institution equals 35 percent or less of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution).

(B) Notwithstanding subparagraph (A), on a case by case basis, the Secretary may apply paragraph (1) with respect to any course otherwise covered by such subparagraph if the Secretary has reason to believe that the enrollment of veterans and persons described in clause (ii) of such subparagraph may be in excess of 85 percent of the total student enrollment in such course.

(6) The Secretary shall ensure that an educational institution that meets the requirements of paragraph (4) or (5) submits information to the Secretary on a biennial basis to verify meeting such requirements. During such biennial period in which an educational institution is covered by such verification, the Secretary may not require the educational institution to submit information with respect to meeting the requirements of paragraph (1).

(7) Paragraph (1) shall not apply with respect to the enrollment of a veteran—

(A) in a program of education for which fewer than 10 students are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 1606 of title 10;

(B) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

(C) in a farm cooperative training course; or

(D) in a course described in subsection (g).

(e) The Secretary may not approve the enrollment of an eligible veteran in a course not leading to a standard college degree offered by a proprietary profit or proprietary nonprofit educational institution if—

(1) the educational institution has been operating for less than two years;

(2) the course is offered at a branch of the educational institution and the branch has been operating for less than two years; or

(3) following either a change in ownership or a complete move outside its original general locality, the educational institution does not retain substantially the same faculty, student body, and courses as before the change in ownership or the move outside the general locality (as determined in accordance with regulations the Secretary shall prescribe) unless the educational institution following such change or move has been in operation for at least two years.

(f)(1) Except as provided in paragraph (2), the Secretary may not approve the enrollment of an eligible veteran in a course as a part of a program of education offered by an educational institution if the course is provided under contract by another educational institution or entity and—

(A) the Secretary would be barred under subsection (e) from approving the enrollment of an eligible veteran in the course of the educational institution or entity providing the course under contract; or

(B) the educational institution or entity providing the course under contract has not obtained approval for the course under this chapter.

(2)(A) In the case of a covered study-abroad course, the Secretary may approve the course for a period of not more than five years, if the contract or other written agreement under which the course is offered provides that—

(i) the educational institution that offers a course that is approved under this chapter agrees—

(I) to assume responsibility for the quality and content of the covered study-abroad course; and

(II) to serve as the certifying official for the course for purposes of this chapter; and

(ii) the educational institution that offers the covered study-abroad course agrees to seek the approval of the course under this chapter by not later than five years after the date of the agreement.

(B) In this paragraph, the term “covered study-abroad course” means a course that—

(i) is provided as a part of a program of education offered by an educational institution under a contract or other written agreement by another educational institution that offers a course that is approved under this chapter;

(ii) is provided at a location in a foreign country; and

(iii) has not been approved under this chapter.

(g) Notwithstanding subsections (e) and (f)(1), the Secretary may approve the enrollment of an eligible veteran in a course approved under this chapter if the course is offered by an educational institution under contract with the Department of Defense or the Department of Homeland Security and is given on or immediately adjacent to a military base, Coast Guard station, National Guard facility, or facility of the Selected Reserve.

(h) In this section, the terms “State or local area”, “recognized postsecondary credential”, “industry or sector partnership”, and “in-demand industry sector or occupation” have the meaning given such terms in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(Added Pub. L. 102-568, title III, §313(a)(2), Oct. 29, 1992, 106 Stat. 4331; amended Pub. L. 104-275, title I, §§103(a)(2), (b), 104(c), Oct. 9, 1996, 110 Stat. 3326, 3327; Pub. L. 105-114, title IV, §401(d), (e), Nov. 21, 1997, 111 Stat. 2293; Pub. L. 105-368, title X, §1005(b)(9), Nov. 11, 1998, 112 Stat. 3365; Pub. L. 107-103, title I, §111(a), Dec. 27, 2001, 115 Stat. 986; Pub. L. 107-296, title XVII, §1704(d), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 115-48, title III, §302, Aug. 16, 2017, 131 Stat. 990; Pub. L. 117-174, §2(a), Aug. 26, 2022, 136 Stat. 2104; Pub. L. 117-333, §9(a), Jan. 5, 2023, 136 Stat. 6130.)

Editorial Notes

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(4)(A), is Pub. L. 89-329, Nov. 8, 1965, 79 Stat. 1219. Subpart 2 of part H of title IV of the Act is classified

generally to subpart 2 (§1099b) of part H of subchapter IV of chapter 28 of Title 20, Education. For complete classification of this Act to the Code, see section 1 of Pub. L. 89-329, set out as a Short Title note under section 1001 of Title 20 and Tables.

AMENDMENTS

2023—Subsec. (f). Pub. L. 117-333 designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), the Secretary” for “The Secretary”, redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (1), and added par. (2).

2022—Subsec. (d). Pub. L. 117-174 amended subsec. (d) generally. Prior to amendment, subsec. (d) related to disapproval of enrollment in a course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10, subject to waivers and exceptions.

2017—Subsec. (a). Pub. L. 115-48, §302(1)(A), substituted “in any of the following:” for “in—” in introductory provisions.

Subsec. (a)(1), (2). Pub. L. 115-48, §302(1)(B), (C), substituted “Any” for “any” and substituted period for semicolon at end.

Subsec. (a)(3). Pub. L. 115-48, §302(1)(D), substituted “Any” for “any” and substituted period at end for “; or”.

Subsec. (a)(4). Pub. L. 115-48, §302(1)(E), added par. (4) and struck out former par. (4), which read as follows: “any independent study program except an accredited independent study program (including open circuit television) leading (A) to a standard college degree, or (B) to a certificate that reflects educational attainment offered by an institution of higher learning.”

Subsec. (h). Pub. L. 115-48, §302(2), added subsec. (h). 2002—Subsec. (g). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(4). Pub. L. 107-103 inserted “(A)” after “leading” and “; or (B) to a certificate that reflects educational attainment offered by an institution of higher learning” before period at end.

1998—Subsec. (d)(2)(C). Pub. L. 105-368 struck out “section” before “subsection (g)”.

1997—Subsec. (a)(4). Pub. L. 105-114, §401(d), inserted “(including open circuit television)” before “leading to a standard”.

Subsec. (g). Pub. L. 105-114, §401(e), substituted “subsections (e) and (f)(1)” for “subsections (e) and (f)”.

1996—Subsec. (c). Pub. L. 104-275, §104(c), substituted “radio.” for “radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.”

Subsec. (d)(2)(C). Pub. L. 104-275, §103(a)(2), substituted “subsection (g)” for “3689(b)(6) of this title”.

Subsecs. (e) to (g). Pub. L. 104-275, §103(b), added subsecs. (e) to (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117-174, §2(b), Aug. 26, 2022, 136 Stat. 2106, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to a quarter, semester, or term, as applicable, commencing on or after the date of the enactment of this Act [Aug. 26, 2022].”

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 Title 10, Armed Forces.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-103, title I, §111(b), Dec. 27, 2001, 115 Stat. 987, provided that: “The amendments made by subsection (a) [amending this section] shall apply to enrollments in independent study courses beginning on or after the date of the enactment of this Act [Dec. 27, 2001].”

SAVINGS PROVISION

Section not applicable to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on Oct. 29, 1992, for as long as such person is continuously thereafter so enrolled and meets requirements of eligibility for such assistance, see section 313(b) of Pub. L. 102-568, set out as a note under section 16136 of Title 10, Armed Forces.

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.

TREATMENT OF CERTAIN COURSES

Pub. L. 117-333, §9(b), Jan. 5, 2023, 136 Stat. 6131, provided that: “In the case of any covered study-abroad course, under the meaning given such term in subparagraph (B) of paragraph (2) of subsection (f) of section 3680A of title 38, United States Code, as added by subsection (a), that is being offered under a contract or other written agreement as of the date of the enactment of this Act [Jan. 5, 2023], the Secretary of Veterans Affairs may approve such course under such paragraph (2) for the five-year period beginning on the date of the enactment of this Act, if such contract or other written agreement meets the criteria provided in subparagraph (A) of such paragraph.”

§ 3681. Limitations on educational assistance

(a) No educational assistance allowance granted under chapter 30, 34, 35, or 36 of this title or 106 or 107 of title 10, or subsistence allowance granted under chapter 31 of this title shall be paid to any eligible person (1) who is on active duty and is pursuing a course of education which is being paid for by the Armed Forces (or by the Department of Health and Human Services in the case of the Public Health Service; or (2) who is attending a course of education or training paid for under chapter 41 of title 5.

(b) No person may receive benefits concurrently under two or more of the provisions of law listed below:

(1) Chapters 30, 31, 32, 34, 35, and 36 of this title.

(2) Chapters 106 and 107 and section 510 of title 10.

(3) Section 903 of the Department of Defense Authorization Act, 1981 (Public Law 96-342, 10 U.S.C. 2141 note).

(4) The Hostage Relief Act of 1980 (Public Law 96-449, 5 U.S.C. 5561 note).

(5) The Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399).

(Added Pub. L. 89-358, §3(b), Mar. 3, 1966, 80 Stat. 21, §1781; amended Pub. L. 91-219, title II, §213(1), Mar. 26, 1970, 84 Stat. 83; Pub. L. 92-540, title IV, §403(8), Oct. 24, 1972, 86 Stat. 1090; Pub. L. 94-502,