

FISCAL NOTE
Requested by Legislative Council
12/19/2014

Bill/Resolution No.: HB 1127

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Aligns state statute with Veterans' Access, Choice, and Accountability Act (VACAA), which is effective July 1, 2015. This bill requires institutions to offer in state tuition to all veterans and dependents who arrive at a public institution.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Minimal, as the NDUS is currently largely compliant with the federal law provisions.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Minimal impact, if any, through gains in limited new enrollment, offset by charging a lower tuition rate (non-resident vs. resident).

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

None

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Minimal, if any, through funding formula, as a result of increased credit hour production.

Name: Laura Glatt

Agency: ND University System Office

Telephone: 7013284116

Date Prepared: 01/05/2015

2015 HOUSE EDUCATION

HB 1127

2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB1127
1/7/2015
21738

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Donna Whetham

Explanation or reason for introduction of bill/resolution:

Definition of resident student for tuition purposes

Minutes:

Attachment #1

Chairman Nathe: Opened the hearing on HB: 1127.

Murray Sagsveen: Chief of Staff in the Chancellor's Office, ND University System. Testimony in favor of HB 1127. See (Attachment #1).

Murray Sagsveen: Here also is Major Michelle Hagel, (ND National Guard) from Adjutant General's office and Rhonda Schauer (ND University System) from the Department of Veteran Affairs. We have collaborated on the bill. We are here to answer any questions that the committee may have.

Chairman Nathe: To clarify, we just want to bring this in line with the federal other statute that was effective this coming July, correct?

Murray Sagsveen: Yes. This federal statute is effective July 1 and that's why we put the emergency clause on it so the House Bill 1127 would become effective the same day that the federal law becomes effective. We don't want to create any problems with the veterans' benefits.

Chairman Nathe: Committee you can see the change on line 24 and 25, what Mr. Sagsveen is talking about. The rest of the policy stays in place, we are just updating that language.

Rep Ben Koppelman: Two brief questions, are people who got dishonorable discharge going to be eligible now for tuition where they weren't before and are the dollars that they become eligible for with this change federal or state dollars?

Murray Sagsveen: It appears that if a veteran has more than 90 days active service and is discharged for any reason, they are entitled to resident tuition, not free tuition but resident tuition wherever they may be.

Rep Mock: Murray in your point earlier, provided they are discharged and it is better than dishonorable discharge or is it any level of discharge?

Murray Sagsveen: Any level of discharge after 90 days they are entitled to resident tuition.

Rep Ben Koppelman:(7:03) In your understanding dishonorable discharge would be eligible for in state tuition and I'm assuming possibly any veteran's financial aid that might be available for a veteran that was discharged in any fashion?

Murray Sagsveen: Rhonda Schauer will answer this question.

Rhonda Schauer, Director for ND State Approving Agency, Dept. of Veteran Affairs: Could you repeat the question?

Rep Ben Koppelman: We established that for the sake of instate tuition someone dishonorably discharged could potentially receive it whereas before they couldn't, or it wouldn't be guaranteed at least. The difference between full tuition and instate tuition, that's ND Dollars that are impacted by the Federal law, so if it is Federal dollars as a scholarship to reduce tuition I can understand the Fed's definition applying but if it is state dollars, I don't know if that is appropriate for them to determine how state dollars are spent.

Rhonda Schauer: Each program has their own criteria, this states the veteran will get instate tuition, all other programs have their own criteria meaning GI bill you have to have an honorable discharge in order to receive that so it would depend on the other programs if that pertains.

Chairman Nathe: Again the bill we are talking about is to change the language to get in sync with the federal law that is to take effect in July.

Rhonda Schauer: That is correct.

Rep Rohr: This is for Mr. Sagsveen. You say it may possibly impact the dollars, please elaborate.

Murray Sagsveen: I say possibly because I don't think it will affect that many veterans. Currently under state law you are entitled to veteran benefits if you have 180 days or more of active duty. Having been in the military for 29 years there are very few situations where you are in the military for only 90 days, usually you are in 2-6 years. We still need to comply with the federal requirement.

Rep Rohr: Are the local veterans aware of this change?

Murray Sagsveen: I think they will be through the Dept. of Veteran affairs, they are very good at getting the information out to the veterans.

Rep Ben Koppelman: The way this bill is written is as a reference to a section of the U.S. law or rule, and the biggest intended change is to have it for from 180 days to 90 days and that to me is not at big concern, what would happen if we simply changed our definition to go to 90 days that part matched but we didn't go back and allow the dishonorable discharge to be included.

Murray Sagsveen: We discussed doing that, the bill or Section 15-10-19.1 references 37-01-40 See(Attachment #1). What if you just change the definition of veteran in Section 37-01-41 subsection 1 from 180 days to 90 days? We were reluctant to do that because this definition of veteran is used for other purposes. We didn't quite know what the implications of that might be. So we choose the safest route with this proposed amendment.

Rep Ben Koppelman:(13:23) I also serve on the Government Veterans Affairs Committee so we deal with those other sections quite frequently and I would agree there could be unintended consequences if you changed it in that section. However in the section that we are dealing in it would not be harmful from the 37-01-40 subsection 1 and duplicate that but change it from 180 to 90 days but put that whole paragraph in this other section and say a veteran is an individual that served on continuous federalized active military duty for 90 days or the full period of which the individual is called or ordered and so on, we could insert that paragraph instead of saying as defined by U.S. law.

Murray Sagsveen: Yes but the veteran that is defined in 37-01-40 continues to say was called or ordered to active military duty for reasons other than training and who was discharged and released under other than dishonorable conditions, that language isn't in the federal law, we are willing to come up with any language that doesn't do something unintended someplace else. We do not want to jeopardize the veterans' benefits to 2400 students.

Chairman Nathe: Any other questions? None.

Chairman Nathe: Anyone else in support of HB 1127. None.

Major Michelle Hagel, ND National Guard, Legal Advisor to the Office of the Adjutant General: Testify in favor Of HB 1127, I don't have anything new to add, but I would be happy to answer any questions you might have.

Chairman Nathe: Any questions? None. If we have any we will forward them to you.

Chairman Nath: Any other support to HB1127. None.

Chairman Nathe: Any opposition to HB 1127? None. Any other testimony? None.

Chairman Nathe: Closed hearing on HB 1127.

2015 HOUSE STANDING COMMITTEE MINUTES

Education Committee
Pioneer Room, State Capitol

HB 1127
1/12/2015
21823

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Anna Whitham

Explanation or reason for introduction of bill/resolution:

Definition of resident student for tuition purposes.

Minutes:

Chairman Nathe: Reopened the hearing on HB 1127.

Rep Ben Koppelman: I was critical of the bill because I did not like the idea of giving benefits to people that had a dishonorable discharge but I did receive answers back and I found out the number of people it would effect will be very minimal, so in this light I will favor the Bill.

Rep Meier: Moved Do Pass.

Rep Mock: Seconded.

Chairman Nathe: Murray Sagsveen is here if you have any questions on HB 1127.

Rep Kelsh: How much of the dollars affected are federal dollars?

Murray Sagsveen: Chief of Staff in the Chancellor's Office, ND University System.
100% is Federal dollars.

A Roll Call Vote was taken: Yes: 13 No: 0 Absent: 0

Do Pass Motion carried.

Chairman Nathe: Closed the hearing on HB 1127.

Date: 1/12/15
Roll Call Vote #: 1127

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1127

House Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Meier Seconded By Rep. Max K

Representatives	Yes	No	Representatives	Yes	No
Chairman Nathe	✓		Rep. Hunskor	✓	
Vice Chairman Schatz	✓		Rep. Kelsh	✓	
Rep. Dennis Johnson	✓		Rep. Mock	✓	
Rep. B. Koppelman	✓				
Rep. Looyesen	✓				
Rep. Meier	✓				
Rep. Olson	✓				
Rep. Rohr	✓				
Rep. Schreiber Beck	✓				
Rep. Zubke	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Kelsh

If the vote is on an amendment, briefly indicate intent:

Do Pass Motion Carried

REPORT OF STANDING COMMITTEE

HB 1127: Education Committee (Rep. Nathe, Chairman) recommends DO PASS
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1127 was placed on the
Eleventh order on the calendar.

2015 SENATE EDUCATION

HB 1127

2015 SENATE STANDING COMMITTEE MINUTES

Education Committee
Missouri River Room, State Capitol

HB 1127
3/4/2015
Job # 24281 (11:49)

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

INITIAL HEARING AND ACTION

Relating to resident students for tuition purposes; and to declare an emergency

Minutes:

3 Attachments

Chairman Flakoll called the committee to order at 9:00am with all committee members present.

Murray Sagsveen, Chief of Staff for the Chancellor in the NDUS office (see attachment #1-2)

Senator Davison: Is this simply for veterans who for instance come from Minnesota and go to NDSCS and we charge them more than the regular tuition?

Sagsveen: If a person is in the military for more than 90 days and that person lives in New York State and moves to North Dakota, we need to treat that veteran as a resident for tuition purposes. I will not speak on Minnesota because there may be reciprocity involved.

Senator Davison: There is not fiscal note so do we know how many veterans we currently charge over the rate of our resident tuition?

Sagsveen: In the 2012-13 academic year, there were 2,258 veterans and in the past academic year there were 2,416 veterans.

Chairman Flakoll: That is the total and we want to know specifically about out of state as a portion of that.

Chairman Flakoll: This is for tuition purposes only. There is House Bill 1003 that may change some of the definitions of resident for purposes of scholarships. This wouldn't interface with that and create problems, correct?

Sagsveen: I don't think it would. That bill refers to state scholarships, and this one is dealing with federal loans and scholarship programs.

Rhonda Schauer, Director for the ND State Approving Agency was called to the podium.

Schauer: At this time, any veteran who comes here is charged in-state tuition. No one is being charged out of state. The language that pertained to that had to change and that is why this bill is here.

Chairman Flakoll: Of the roughly 2,400, how many of those individuals are from out of state who have recently moved here?

Schauer: I do not have that number but I will get that for the committee. (see attachment #3)

Senator Davison: After thinking it over, the schools get to keep the extra tuition regardless, so there wouldn't be a fiscal note. It doesn't cost the general fund any more money.

Vice Chairman Rust: You are saying that currently, every veteran regardless of where they are from, are charged resident tuition?

Schauer: at our public institutions, yes.

Vice Chairman Rust: does that mean that this law will bring the law and compliance of what we are already doing?

Schauer: Yes. It is a matter of language. B.A. stated that we were not in compliance because of the definition. This bill will make us in compliance.

Vice Chairman Rust: Our law and our definitions do not conform to what they want?

Schauer: Correct.

Chairman Flakoll: closed the hearing

Vice Chairman Rust makes a motion for a DO PASS
Senator Oban seconds the motion.

A vote was taken: 6 yeas, 0 nays, 0 absent
The motion carries.

Senator Marcellais will carry the bill.

**2015 SENATE EDUCATION COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1127**

Senate Education Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vice Chairman Rust Seconded By Senator Oban

Senators	Yes	No	Senators	Yes	No
Chairman Flakoll	X		Senator Marcellais	X	
Vice Chairman Rust	X		Senator Oban	X	
Senator Davison	X				
Senator Schaible	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Marcellais

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1127: Education Committee (Sen. Flakoll, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1127 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

HB 1127

#1
HB 1127
1/7/15

**House Education Committee
Testimony on House Bill 1127
by Murray G. Sagsveen
January 7, 2015**

Good morning! I am Murray Sagsveen, Chief of Staff for the Chancellor in the North Dakota University System Office. I appear in support of House Bill 1127.

Last year, the Congress and President enacted the Veterans Access, Choice and Accountability Act of 2014 (Public Law 113-146). Section 702 of the Act (which will amend 38 U.S.C. 3679 effective July 1, 2015) requires the Department of Veterans Affairs to disapproved programs of education under the Post-9/11 GI Bill and Montgomery GI Bill at a public institution of higher learning if the school charges qualifying veterans and dependents tuition in excess of the rate for resident students.

The Act uses the term "covered individual" to define qualifying veterans and dependents:

....a covered individual is any individual as follows:

"(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

"(B) An individual who is entitled to assistance under section 3311(b)(9) or 3319 of this title by virtue of such individual's relationship to a veteran described in subparagraph (A).

This definition differs from the definition of "veteran" in Section 37-10-40: "A 'veteran' is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty..."

A "covered individual" also includes, pursuant to 38 U.S.C. 3311(b)(9) the deceased veteran's child ("An individual who is the child of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces") and the veteran's spouse and children (see 38 U.S.C. 3319, enclosed).

This bill, if enacted, would ensure that North Dakota fully complies with the Veterans Access, Choice and Accountability Act of 2014. If this bill is not enacted, the Department of Veterans Affairs would be obligated to withhold veterans' educational benefits from veterans attending all eleven institutions within the North Dakota University System. Currently, about 2400 veterans are receiving educational benefits annually totaling about \$22 million at the eleven University System institutions.

This bill includes an emergency clause so that, if enacted, it will become effective on the same day Section 702 of the Veterans Access, Choice and Accountability Act of 2014 becomes effective.

For reference purposes, the following are enclosed:

- Section 702 of the Veterans Access, Choice and Accountability Act of 2014
- 38 U.S.C. 3311
- 38 U.S.C. 3319
- N.D.C.C. 37-10-40
- Additional Background Information for House Bill 1127
- Veterans Enrollment Spreadsheet

Rhonda Schauer, who administers the veterans' educational benefit programs, and I will answer questions that you may have.

MGS:20150106

SEC. 702. APPROVAL OF COURSES OF EDUCATION PROVIDED BY PUBLIC INSTITUTIONS OF HIGHER LEARNING FOR PURPOSES OF ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM AND POST-9/11 EDUCATIONAL ASSISTANCE CONDITIONAL ON IN-STATE TUITION RATE FOR VETERANS.

(a) IN GENERAL

—Section 3679 of title 38, United States Code, is amended by adding at the end the following new subsection:

(c)(1) Notwithstanding any other provision of this chapter and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning to a covered individual pursuing a course of education with educational assistance under chapter 30 or 33 of this title while living in the State in which the public institution of higher learning is located if the institution charges tuition and fees for that course for the covered individual at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual's State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

(B) An individual who is entitled to assistance under section 3311(b)(9) or 3319 of this title by virtue of such individual's relationship to a veteran described in subparagraph (A).

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A) or (2)(B) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered individual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency, in order to be charged tuition and fees for that course at a rate that is equal to or less than the rate the institution charges for tuition and fees for that course for residents of the State.

(5) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.

(6) Disapproval under paragraph (1) shall apply only with respect to educational assistance under chapters 30 and 33 of this title.”.

(b) EFFECTIVE DATE

.—Subsection (c) of section 3679 of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to educational assistance provided for pursuit of a program of education during a quarter, semester, or term, as applicable, that begins after July 1, 2015.

applicable to Federal student aid provided through the Department of Education under Title IV of the Higher Education Act of 1965, as required under section 484B of that Act when students withdraw prior to course completion;

(g) provide educational plans for all individuals using Federal military and veterans educational benefits that detail how they will fulfill all the requirements necessary to graduate and the expected timeline of completion; and

(h) designate a point of contact for academic and financial advising (including access to disability counseling) to assist service member and veteran students and their families with the successful completion of their studies and with their job searches.

SEC. 3. Implementation of the Principles of Excellence.

(a) The Departments of Defense and Veterans Affairs shall reflect the Principles described in section 2 of this order in new agreements with educational institutions, to the extent practicable and permitted by law, concerning participation in the Yellow Ribbon Program for veterans under the Post-9/11 GI Bill or the Tuition Assistance Program for active duty service members. The Department of Veterans Affairs shall also notify all institutions participating in the Post-9/11 GI Bill program that they are strongly encouraged to comply with the Principles and shall post on the Department's website those that do.

(b) The Secretaries of Defense, Veterans Affairs, and Education, in consultation with the Director of the Bureau of Consumer Financial Protection (CFPB) and the Attorney General, shall take immediate action to implement this order, and, within 90 days from the date of this order, report to the President their progress on implementation, including promptly revising regulations, Department of Defense Instructions, guidance documents, Memoranda of Understanding, and other policies governing programs authorized or funded by the Post-9/11 GI Bill and the Tuition Assistance Program to implement the Principles, to the extent permitted by law.

(c) The Secretaries of Defense, Veterans Affairs, and Education shall develop a comprehensive strategy for developing service member and veteran student outcome measures that are comparable, to the maximum extent practicable, across Federal military and veterans educational benefit programs, including, but not limited to, the Post-9/11 GI Bill and the Tuition Assistance Program. To the extent practicable, the student outcome measures should rely on existing administrative data to minimize the reporting burden on institutions participating in these benefit programs. The student outcome measures should permit comparisons across Federal educational programs and across institutions and types of institutions. The Secretary of Education, in consultation with the Secretaries of Defense and Veterans Affairs, shall also collect from educational institutions, as part of the Integrated Postsecondary Education Data System and other data collection systems, information on the amount of funding received pursuant to the Post-9/11 GI Bill and the Tuition Assistance Program. The Secretary of Education shall make this information publicly available on the College Navigator Website.

(d) The Secretary of Veterans Affairs, in consultation with the Secretaries of Defense and Education, shall provide to prospective military and veteran students, prior to using their benefits, streamlined tools to compare educational institutions using key measures of affordability and value through the Department of Veterans Affairs' eBenefits portal. The eBenefits portal shall be updated to facilitate access to school performance information, consumer protection information, and key Federal financial aid documents. The Secretaries of Defense and Veterans Affairs shall also ensure that service members and veterans have access to that information through educational counseling offered by those Departments.

SEC. 4. Strengthening Enforcement and Compliance Mechanisms. Service members, veterans, spouses, and

other family members should have access to a strong enforcement system through which to file complaints when institutions fail to follow the Principles. Within 90 days of the date of this order, the Secretaries of Defense and Veterans Affairs, in consultation with the Secretary of Education and the Director of the CFPB, as well as with the Attorney General, as appropriate, shall submit to the President a plan to strengthen enforcement and compliance mechanisms. The plan shall include proposals to:

(a) create a centralized complaint system for students receiving Federal military and veterans educational benefits to register complaints that can be tracked and responded to by the Departments of Defense, Veterans Affairs, Justice, and Education, the CFPB, and other relevant agencies;

(b) institute uniform procedures for receiving and processing complaints across the State Approving Agencies (SAAs) that work with the Department of Veterans Affairs to review participating institutions, provide a coordinated mechanism across SAAs to alert the Department of Veterans Affairs to any complaints that have been registered at the State level, and create procedures for sharing information about complaints with the appropriate State officials, accrediting agency representatives, and the Secretary of Education;

(c) institute uniform procedures for referring potential matters for civil or criminal enforcement to the Department of Justice and other relevant agencies;

(d) establish procedures for targeted risk-based program reviews of institutions to ensure compliance with the Principles;

(e) establish new uniform rules and strengthen existing procedures for access to military installations by educational institutions. These new rules should ensure, at a minimum, that only those institutions that enter into a memorandum of agreement pursuant to section 3(a) of this order are permitted entry onto a Federal military installation for the purposes of recruitment. The Department of Defense shall include specific steps for instructing installation commanders on commercial solicitation rules and the requirement of the Principles outlined in section 2(c) of this order; and

(f) take all appropriate steps to ensure that websites and programs are not deceptively and fraudulently marketing educational services and benefits to program beneficiaries, including initiating a process to protect the term "GI Bill" and other military or veterans-related terms as trademarks, as appropriate.

SEC. 5. General Provisions. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) **ENTITLEMENT.**—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) **COVERED INDIVIDUALS.**—An individual described in this subsection is any individual as follows:

(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

(3) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 36 months; or

(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

(4) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 30 months; or

(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

(5) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 24 months; or

(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

(6) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service

on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 18 months; or

(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

(7) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 12 months; or

(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

(8) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 6 months; or

(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

(9) An individual who is the child of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces.

(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

(1) A discharge from active duty in the Armed Forces with an honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service for—

(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or
 (C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) **PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.**—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10 or section 182 of title 14.

(3) A period of service that is terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction; or

(C) a defective enlistment agreement.

(e) **TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.**—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

(f) **MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.**—

(1) **IN GENERAL.**—Educational assistance payable by reason of paragraph (9) of subsection (b) shall be known as the "Marine Gunnery Sergeant John David Fry scholarship".

(2) **DEFINITION OF CHILD.**—For purposes of that paragraph, the term "child" includes a married individual or an individual who is above the age of twenty-three years.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2359; amended Pub. L. 111-32, title X, § 1002(a), June 24, 2009, 123 Stat. 1889; Pub. L. 111-377, title I, § 101(b), (c), Jan. 4, 2011, 124 Stat. 4107.)

AMENDMENTS

2011—Subsec. (c)(4). Pub. L. 111-377, § 101(b), substituted "A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service" for "A discharge or release from active duty in the Armed Forces" in introductory provisions.

Subsec. (d)(2). Pub. L. 111-377, § 101(c), inserted "or section 182 of title 14" before period at end.

2009—Subsec. (b)(9). Pub. L. 111-32, § 1002(a)(1), added par. (9).

Subsec. (f). Pub. L. 111-32, § 1002(a)(2), added subsec. (f).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, § 101(d)(4), (6), Jan. 4, 2011, 124 Stat. 4108, provided that:

"(4) **HONORABLE SERVICE REQUIREMENT.**—The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 4, 2011], and shall apply with respect to discharges and releases from the Armed Forces that occur on or after that date.

"(5) **SERVICE IN CONNECTION WITH ATTENDANCE AT COAST GUARD ACADEMY.**—The amendment made by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals entering into agreements on service in the Coast Guard on or after that date."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-32, title X, § 1002(d), June 24, 2009, 123 Stat. 1890, provided that:

"(1) **EFFECTIVE DATE.**—The amendments made by this section [amending this section and sections 3313 and 3321 of this title] shall take effect on August 1, 2009.

"(2) **APPLICABILITY.**—The Secretary of Veterans Affairs shall begin making payments to individuals entitled to educational assistance by reason of paragraph (9) of section 3311(b) of title 38, United States Code, as added by subsection (a), by not later than August 1, 2010. In the case of an individual entitled to educational assistance by reason of such paragraph for the period beginning on August 1, 2009, and ending on July 31, 2010, the Secretary shall make retroactive payments to such individual for such period by not later than August 1, 2010."

§ 3312. Educational assistance: duration

(a) **IN GENERAL.**—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

(b) **CONTINUING RECEIPT.**—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

(c) **DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.**—

(1) **IN GENERAL.**—Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

(2) **DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.**—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

(d) MATCHING CONTRIBUTIONS.—

(1) IN GENERAL.—In instances where the educational assistance provided an individual under section 3313(c)(1)(A) does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

(2) USE OF APPROPRIATED FUNDS.—Amounts available to the Secretary under section 3324(b) for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

(e) OUTREACH.—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2368.)

PAT TILLMAN VETERANS' SCHOLARSHIP INITIATIVE

Pub. L. 111-275, title I, § 107, Oct. 13, 2010, 124 Stat. 2872, provided that:

"(a) AVAILABILITY OF SCHOLARSHIP INFORMATION.—By not later than June 1, 2011, the Secretary of Veterans Affairs shall include on the Internet website of the Department of Veterans Affairs a list of organizations that provide scholarships to veterans and their survivors and, for each such organization, a link to the Internet website of the organization.

"(b) MAINTENANCE OF SCHOLARSHIP INFORMATION.—The Secretary of Veterans Affairs shall make reasonable efforts to notify schools and other appropriate entities of the opportunity to be included on the Internet website of the Department of Veterans Affairs pursuant to subsection (a)."

§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

(a) ADDITIONAL ASSISTANCE.—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of \$500.

(b) COVERED INDIVIDUALS.—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

(1) who resides in a county (or similar entity utilized by the Bureau of the Census) with less than seven persons per square mile, according to the most recent decennial Census; and

(2) who—

(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or
(B) travels by air to physically attend an institution of higher learning for pursuit of

such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

(c) PROOF OF RESIDENCE.—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

(1) DD Form 214, Certification of Release or Discharge from Active Duty.

(2) The most recent Federal income tax return.

(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

(d) SINGLE PAYMENT OF ASSISTANCE.—An individual is entitled to only one payment of additional assistance under this section.

(e) NO CHARGE AGAINST ENTITLEMENT.—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2369; amended Pub. L. 111-275, title X, § 1001(g)(6), Oct. 13, 2010, 124 Stat. 2896.)

AMENDMENTS

2010—Subsec. (b)(2)(B). Pub. L. 111-275 substituted "higher learning" for "higher education".

§ 3319. Authority to transfer unused education benefits to family members

(a) IN GENERAL.—

(1) Subject to the provisions of this section, the Secretary concerned may permit an individual described in subsection (b) who is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

(2) The purpose of the authority in paragraph (1) is to promote recruitment and retention in the uniformed services. The Secretary concerned may exercise the authority for that purpose when authorized by the Secretary of Defense in the national security interests of the United States.

(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any member of the uniformed services who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the uniformed services; or

(2) the years of service as determined in regulations pursuant to subsection (j).

(c) ELIGIBLE DEPENDENTS.—An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual's entitlement as follows:

(1) To the individual's spouse.

(2) To one or more of the individual's children.

(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(d) **LIMITATION ON MONTHS OF TRANSFER.**—The total number of months of entitlement transferred by a individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) **DESIGNATION OF TRANSFEREE.**—An individual transferring an entitlement to educational assistance under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

(2) designate the number of months of such entitlement to be transferred to each such dependent; and

(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

(f) **TIME FOR TRANSFER; REVOCATION AND MODIFICATION.**—

(1) **TIME FOR TRANSFER.**—Subject to the time limitation for use of entitlement under section 3321 an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

(2) **MODIFICATION OR REVOCATION.**—

(A) **IN GENERAL.**—An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

(B) **NOTICE.**—The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

(3) **PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.**—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(g) **COMMENCEMENT OF USE.**—A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of at least—

(A) six years of service in the armed forces; or

(B) the years of service as determined in regulations pursuant to subsection (j); or

(2) in the case of entitlement transferred to a child, both—

(A) the completion by the individual making the transfer of at least—

(i) ten years of service in the armed forces; or

(ii) the years of service as determined in regulations pursuant to subsection (j); and

(B) either—

(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(ii) the attainment by the child of 18 years of age.

(h) **ADDITIONAL ADMINISTRATIVE MATTERS.**—

(1) **USE.**—The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) **NATURE OF TRANSFERRED ENTITLEMENT.**—Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6)—

(A) in the case of entitlement transferred to a spouse under this section, the spouse is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred; or

(B) in the case of entitlement transferred to a child under this section, the child is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

(3) **RATE OF PAYMENT.**—The monthly rate of educational assistance payable to a dependent to whom entitlement referred to in paragraph (2) is transferred under this section shall be payable—

(A) in the case of a spouse, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer; or

(B) in the case of a child, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer as if the individual were not on active duty.

(4) **DEATH OF TRANSFEROR.**—The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) **LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.**—

(A) **IN GENERAL.**—A child to whom entitlement is transferred under this section may use the benefits transferred without regard to the 15-year delimiting date specified in section 3321, but may not, except as provided in subparagraph (B), use any benefits so transferred after attaining the age of 26 years.

(B) **PRIMARY CAREGIVERS OF SERIOUSLY INJURED MEMBERS OF THE ARMED FORCES AND VETERANS.**—

(1) **IN GENERAL.**—Subject to clause (ii), in the case of a child who, before attaining the age of 26 years, is prevented from pursuing a chosen program of education by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a), the child may use the benefits beginning on the date specified in clause (iii) for a period whose length is specified in clause (iv).

(ii) **INAPPLICABILITY FOR REVOCATION.**—Clause (i) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D).

(iii) **DATE FOR COMMENCEMENT OF USE.**—The date specified in this clause for the beginning of the use of benefits by a child under clause (i) is the later of—

(I) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i);

(II) the date on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the child to initiate or resume the use of benefits; or

(III) the date on which the child attains the age of 26 years.

(iv) **LENGTH OF USE.**—The length of the period specified in this clause for the use of benefits by a child under clause (i) is the length equal to the length of the period that—

(I) begins on the date on which the child begins acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i); and

(II) ends on the later of—

(aa) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member as described in clause (i); or

(bb) the date on which it is reasonably feasible, as so determined, for the child to initiate or resume the use of benefits.

(6) **SCOPE OF USE BY TRANSFEREES.**—The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(7) **ADDITIONAL ADMINISTRATIVE PROVISIONS.**—The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible individual for purposes of such provisions.

(1) **OVERPAYMENT.**—

(i) **JOINT AND SEVERAL LIABILITY.**—In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685.

(2) **FAILURE TO COMPLETE SERVICE AGREEMENT.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to

complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

(B) **EXCEPTION.**—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(i) by reason of the death of the individual; or

(ii) for a reason referred to in section 3311(c)(4).

(j) **REGULATIONS.**—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

(2) Such regulations shall specify—

(A) the manner of authorizing the transfer of entitlements under this section;

(B) the eligibility criteria in accordance with subsection (b); and

(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2369; amended Pub. L. 111-275, title X, § 1001(g)(7), Oct. 13, 2010, 124 Stat. 2896; Pub. L. 111-377, title I, §§ 110(a), (b), 112(b), title II, § 201(b), Jan. 4, 2011, 124 Stat. 4120, 4122, 4123.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-377, § 110(b), designated existing provisions as par. (1), substituted "Subject to the provisions of this section, the Secretary concerned may permit" for "Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit", and added par. (2).

Subsec. (b). Pub. L. 111-377, § 110(a)(1), substituted "uniformed services" for "Armed Forces" in introductory provisions and par. (1).

Subsec. (b)(2). Pub. L. 111-377, § 112(b), which directed substitution of "to subsection (j)" for "to section (k)", could not be executed because of prior amendment by Pub. L. 111-275. See 2010 Amendment note below.

Subsec. (h)(5). Pub. L. 111-377, § 201(b), amended par. (5) generally. Prior to amendment, text read as follows: "A child to whom entitlement is transferred under this section may use the benefit without regard to the 15-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years."

Subsec. (k). Pub. L. 111-377, § 110(a)(2), struck out subsec. (k). Text read as follows: "Notwithstanding section 101(25), in this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army with respect to matters concerning the Army;

"(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

"(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

"(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Homeland Security when it is not operating as a service in the Navy."

2010—Subsec. (b)(2). Pub. L. 111-275 substituted "subsection (j)" for "section (k)".

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, § 110(c), Jan. 4, 2011, 124 Stat. 4120, provided that: "The amendments made by this

section [amending this section] shall take effect on August 1, 2011."

Amendment by section 201(b) of Pub. L. 111-377 effective Aug. 1, 2011, and applicable with respect to preventions and suspension of pursuit of programs of education that commence on or after that date, see section 201(d) of Pub. L. 111-377, set out as a note under section 3031 of this title.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3321. Time limitation for use of and eligibility for entitlement

(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

(b) EXCEPTIONS.—

(1) APPLICABILITY OF SECTION 3031 TO RUNNING OF PERIOD.—Subsections (b), (c), and (d) of section 3031 shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 with respect to the running of the 10-year period described in section 3031(a).

(2) APPLICABILITY OF SECTION 3031 TO TERMINATION.—Section 3031(f) shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 shall be deemed to be a reference to section 3312 of this title.

(3) DETERMINATION OF LAST DISCHARGE OR RELEASE.—For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2).

(4) APPLICABILITY TO CHILDREN OF DECEASED MEMBERS.—The period during which an individual entitled to educational assistance by reason of section 3311(b)(9) may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's eighteenth birthday.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2373; amended Pub. L. 111-32, title X, § 1002(c), June 24, 2009, 123 Stat. 1889; Pub. L. 111-275, title X, § 1001(g)(8), Oct. 13, 2010, 124 Stat. 2896.)

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111-275 substituted "section 3312 of this title" for "3312".

2009—Subsec. (b)(4). Pub. L. 111-32 added par. (4).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-32 effective Aug. 1, 2009, see section 1002(d)(1) of Pub. L. 111-32, set out as a note under section 3311 of this title.

§ 3322. Bar to duplication of educational assistance benefits

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 or section 510 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

(e) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—An individual entitled to educational assistance under both sections 3311(b)(9) and 3319 may not receive assistance under both provisions concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which provision to receive educational assistance.

(f) BAR TO RECEIPT OF COMPENSATION AND PENSION AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—The commencement of a program of education under section 3311(b)(9) shall be a bar to the following:

(1) Subsequent payments of dependency and indemnity compensation or pension based on the death of a parent to an eligible person over the age of 18 years by reason of pursuing a course in an educational institution.

(2) Increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person, whether eligibility is based upon the death of the parent.

(g) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS.—A spouse or child who is entitled to educational assistance under

management and budget, shall make semiannual transfers from the general fund appropriation for the maintenance of the national guard to the national guard operating fund.

37-01-39. Expenditure of funds.

All expenditures of funds for the maintenance and operation of the national guard and the office of the adjutant general must be made upon vouchers signed and approved by the adjutant general or such other officer or official as may be designated by the adjutant general. Upon approval of such vouchers by the office of the budget, warrant-checks must be prepared by the office of management and budget for signature by the state auditor and state treasurer in accordance with such approved vouchers.

37-01-39.1. Unit funds - Maintenance and expenditure.

Each unit of the North Dakota national guard, upon approval of the adjutant general, is authorized to maintain a nonreverting unit fund for purposes as prescribed by federal law and regulations relating to unit funds of the federal military forces and to pay petty operating, equipment, and supply costs incurred by the individual units. All funds transferred by the adjutant general to the unit fund must be deposited in the unit fund and are hereby appropriated for the maintenance and operation of the unit funds. Unit funds may be expended upon authorization of the unit fund custodian designated by the adjutant general under guidelines established by the adjutant general.

37-01-40. Veteran and wartime veteran defined - Uniform service dates for wartime veterans.

1. A "veteran" is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty for reasons other than training, and who was discharged or released under other than dishonorable conditions. A discharge reflecting "expiration of term of service" or "completion of required service" or words to that effect qualifies the shorter term of service as making the individual a veteran.
2. A "wartime veteran" is an individual who served in the active military forces, during a period of armed conflict or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released under other than dishonorable conditions. "Wartime veteran" also includes an individual who died in the line of duty in the active military forces, as determined by the armed forces.
3. Period of service dates for a wartime veteran begins with the date of any declaration of war by the Congress of the United States or presidential proclamation beginning hostilities or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the Congress of the United States and dates determined by the United States department of defense.
4. Current uniform period of service dates for periods of armed conflict include:
 - a. The period beginning December 7, 1941, through December 31, 1946, known as World War II;
 - b. The period beginning June 27, 1950, through January 31, 1955, known as the Korean war;
 - c. The period beginning August 5, 1964, through May 7, 1975, known as the Vietnam war;
 - d. The period beginning August 2, 1990, through January 2, 1992, known as the gulf war; and
 - e. The period beginning September 11, 2001, and ending on a date prescribed by presidential proclamation or by Congress as the last day of operation Iraqi freedom or operation enduring freedom, whichever occurs later.

5. The department of veterans' affairs shall maintain a list of all period of service dates for emergency conditions in which the armed forces expeditionary medal has been awarded.

37-01-41. Claims against the national guard.

1. Any individual injured by an activity of the North Dakota national guard may submit a claim to the adjutant general. As used in this section, "claim" means a monetary demand upon the state for personal injury or property damage arising from activities of the national guard while on state active duty.
2. The adjutant general may approve a claim for less than two thousand five hundred dollars. If the claim is approved by the adjutant general, the adjutant general shall apply to the emergency commission for an amount from the contingency fund sufficient to pay the claim. It must be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and the commission shall direct the transfer of the requested amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
3. The adjutant general shall forward any claim exceeding two thousand five hundred dollars to the emergency commission with the adjutant general's recommendation. If the claim is approved by the emergency commission, it must be conclusively presumed that an emergency exists, and the commission shall direct the transfer of the approved amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
4. Decisions of the adjutant general or the emergency commission partially or totally denying a claim may not be appealed to any court of this state.
5. Claims may not be submitted to the legislative assembly unless the claim has been partially or totally denied by the adjutant general or the emergency commission.

37-01-42. Honorary high school diplomas - Veterans of World War II and Korean and Vietnam conflicts.

1. Any World War II veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between September 16, 1940, and December 31, 1946, prior to completing the necessary high school graduation requirements; and
 - b. The veteran was honorably discharged from the United States armed forces.
2. Any Korean conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran was a member of the United States armed forces between June 27, 1950, and January 31, 1955; and
 - b. The veteran was honorably discharged from the United States armed forces.
3. Any Vietnam conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between February 28, 1961, and May 7, 1975; and
 - b. The veteran was honorably discharged from the United States armed forces.
4. In order to receive an honorary high school diploma, the veteran or a representative of the veteran shall complete an application on a form prescribed by the superintendent of public instruction. A county veterans' service officer shall certify the veteran's status as an honorably discharged veteran who served during the qualifying period to the superintendent of public instruction. The superintendent of public instruction shall forward the application to the school district in which the veteran last attended school before induction. If the school district no longer exists, the application must be forwarded to the school district that has jurisdiction. If a school district decides not to issue a diploma under this program, the veteran may apply to the superintendent of public instruction for the diploma.

Additional Background Information for HB 1127

- On October 29, 2014, the Department of Veterans Affairs sent a letter to the Governors requesting information on intent to comply with the requirements of section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (the Choice Act).
- These statutory provisions require VA to disapprove programs of education under the Post-9/11 GI Bill and Montgomery GI Bill at public institutions of higher learning if the school charges qualifying Veterans and dependents tuition and fees in excess of the rate for resident students. Section 702 is effective for terms beginning after July 1, 2015.
- VA cannot compel a school to charge covered individuals the in-State rates

Funds Received from Post 9/11 GI Bill & Montgomery GI Bill

(source: USDVA Education Services)

FFY13

Chapter 33	Chapter 30	Chapter 1606/1607
16.9 Million	1.2 Million	2 Million

FFY14

Chapter 33	Chapter 30	Chapter 1606/1607
19 Million	1.1 Million	1.7 Million

Veteran Enrollment @ ND College/Universities

(source: ND College & University Certifying Officials Report)

2012-2013 Academic Year: 2,258

2013-2014 Academic Year: 2,416

Approved ND Facilities for Veterans Receiving VA Education and Training Benefits

IHL-Institutions of Higher Learning: 27

NCD: Non College Degree Facilities: 9

Apprenticeship Facilities: 38

On-the-Job Facilities: 26

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Veteran Enrollment Report

Institution	Fall 2009		Spring 2010		Fall 2010		Spring 2011		Fall 2011		Spring 2012		Fall 2012		Spring 2013		Fall 2013	Fall 2013	Spring 2014	Spring 2014	Fall 2014	Fall 2014
	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans
Bismarck State College	173	20	188	41	220	65	234	70	234	81	230	86	200	90	208	85	197	98	183	95	205	115
Cankdesia Cikana Community College	2	0	0	0	2	0	2	0	3	0	5	0	4	1	9	1	8	3	7	2	1	1
Central Michigan University MAFB	0	0	2	2	2	2	3	3	3	3	1	0	0	0	0	0	1	1	1	0	0	0
Dakota College-Bottineau	10	3	17	17	16	8	24	17	17	9	16	9	32	21	21	13	21	15	24	18	16	13
Dickinson State University	33	11	52	20	37	25	46	21	54	28	55	28	87	31	57	25	37	14	35	15	35	14
Embry-Riddle Aero University MAFB	4	3	5	3	1	1	22	17	3	2	2	1	8	2	8	3	5	4	4	9	1	0
Fort Berthold Community College	4	0	7	0	6	1	17	0	4	2	5	2	2	1	10	1	5	2	4	2	1	1
University of Jamestown	15	3	16	5	22	12	22	14	24	13	21	12	19	14	17	11	14	9	18	9	14	9
Lake Region State College	60	21	78	30	43	20	46	25	35	52	56	32	52	34	66	44	50	35	49	37	221	44
Mayville State University	11	5	14	5	22	9	16	9	25	10	22	8	33	11	28	9	34	13	43	18	28	14
Minot State University	194	65	215	76	250	112	241	127	238	125	194	114	220	146	210	156	208	164	199	162	221	170
North Dakota State College of Science	12	12	12	12	30	28	35	30	86	34	78	30	91	39	96	35	88	32	82	28	81	30
North Dakota State University	334	37	370	16	455	144	442	148	447	160	435	163	475	192	462	188	484	199	456	192	462	194
Park University GFAB	76	19	27	7	26	8	38	11	30	23	31	25	27	26	33	26	22	19	22	19	25	19
Park University MAFB	46	14	29	9	29	13	26	12	19	11	22	15	26	19	25	19	21	19	41	36	31	28
Rasmussen College-Bismarck	21	6	17	2	30	7	18	17	21	15	10	2	6	3	8	2	7	4	10	5	6	2
Rasmussen College-Fargo	55	14	55	14	62	20	49	16	27	15	33	20	27	17	33	20	16	19	14	13	10	9
Sanford College of Nursing	1	1	1	1	4	3	4	3	4	1	3	2	1	1	2	1	2	1	3	1	6	1
Sitting Bull College	8	0	6	0	8	1	6	2	4	0	6	2	5	4	2	1	7	1	6	0	4	3
Trinity Bible College	3	3	3	3	12	4	12	4	8	6	5	4	6	4	6	4	21	19	8	7	7	5
Turtle Mountain Community College	1	1	1	1	13	3	14	3	12	5	15	5	13	3	13	3	10	8	11	2	9	4
United Tribes Technical College	17	1	16	0	20	4	25	5	18	0	17	8	4	4	2	2	15	4	15	4	0	0
University of Mary	28	5	144	42	157	71	139	59	136	71	135	68	146	88	191	75	181	74	169	69	160	70
University of North Dakota	605	103	640	117	708	224	370	200	508	268	562	198	798	194	877	282	744	195	762	200	812	202
Valley City State University	14	1	19	6	29	11	22	12	24	8	27	11	29	11	26	8	24	10	27	10	27	10
Veterans Education Training	1	0	1	0	1	0	1	0	22	0	15	0	14	0	12	7	16	4	17	3	17	1
Williston State College	16	10	18	10	18	10	23	13	18	4	21	9	15	11	12	6	20	9	13	6	13	7
TOTALS	1,744	358	1,947	439	2,284	804	1,957	838	2,004	946	1,641	854	2,250	561	2,432	1,017	2,262	965	2,258	998	2,416	967

The new Post-9/11 GI Bill (Chapter 33) is the most extensive education benefit package ever offered to our nation's Veterans, service members, and their families. It has a potential to pay for their entire college education, to include housing, books and supplies. The term enroll is used in this report as defined as a person enrolled in a class, school or course of study. The Chapter 33 totals are a breakdown of total veterans enrolled. Report compiled by Rhonda Schauer, Director, SAA

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HB 1127

Senate Education Committee

March 4, 2015

Murray Sagsveen, Chief of Staff

701.328.1499 | murray.sagsveen@ndus.edu

Good morning! I am Murray Sagsveen, Chief of Staff for the Chancellor in the North Dakota University System Office. I appear in support of House Bill 1127.

In 2014, the Congress and President enacted the Veterans Access, Choice and Accountability Act of 2014 (Public Law 113-146). Section 702 of the Act (which will amend 38 U.S.C. 3679 effective July 1, 2015) requires the Department of Veterans Affairs to disapproved programs of education under the Post-9/11 GI Bill and Montgomery GI Bill at a public institution of higher learning if the school charges qualifying veterans and dependents tuition in excess of the rate for resident students.

The Act uses the term "covered individual" to define qualifying veterans and dependents:

....a covered individual is any individual as follows:

“(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

“(B) An individual who is entitled to assistance under section 3311(b)(9) or 3319 of this title by virtue of such individual’s relationship to a veteran described in subparagraph (A).

This definition differs from the definition of "veteran" in Section 37-10-40: "A 'veteran' is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty..."

A "covered individual" also includes, pursuant to 38 U.S.C. 3311(b)(9) the deceased veteran's child ("An individual who is the child of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces") and the veteran's spouse and children (see 38 U.S.C. 3319, enclosed).

This bill, if enacted, would ensure that North Dakota fully complies with the Veterans Access, Choice and Accountability Act of 2014. If this bill is not enacted, the Department of Veterans Affairs would be obligated to withhold veterans' educational benefits from veterans attending all eleven institutions within the North Dakota University System. Currently, 2400 veterans are receiving educational benefits annually totaling about \$22 million at the eleven University System institutions.

This bill includes an emergency clause so that, if enacted, it will be effective on the same day section 702 of the Veterans Access, Choice and Accountability Act of 2014 becomes effective.

For reference purposes, the following will be provided to the committee clerk:

- Section 702 of the Veterans Access, Choice and Accountability Act of 2014
- 38 U.S.C. 3311
- 38 U.S.C. 3319
- Additional Background Information for House Bill 1127
- Veterans Enrollment Spreadsheet

Rhonda Schauer, who administers the veterans' educational benefit programs, and I will answer questions that you may have.

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HB 1127

SEC. 702. APPROVAL OF COURSES OF EDUCATION PROVIDED BY PUBLIC INSTITUTIONS OF HIGHER LEARNING FOR PURPOSES OF ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM AND POST-9/11 EDUCATIONAL ASSISTANCE CONDITIONAL ON IN-STATE TUITION RATE FOR VETERANS.

(a) IN GENERAL

—Section 3679 of title 38, United States Code, is amended by adding at the end the following new subsection:

(c)(1) Notwithstanding any other provision of this chapter and subject to paragraphs (3) through (6), the Secretary shall disapprove a course of education provided by a public institution of higher learning to a covered individual pursuing a course of education with educational assistance under chapter 30 or 33 of this title while living in the State in which the public institution of higher learning is located if the institution charges tuition and fees for that course for the covered individual at a rate that is higher than the rate the institution charges for tuition and fees for that course for residents of the State in which the institution is located, regardless of the covered individual's State of residence.

(2) For purposes of this subsection, a covered individual is any individual as follows:

(A) A veteran who was discharged or released from a period of not fewer than 90 days of service in the active military, naval, or air service less than three years before the date of enrollment in the course concerned.

(B) An individual who is entitled to assistance under section 3311(b)(9) or 3319 of this title by virtue of such individual's relationship to a veteran described in subparagraph (A).

(3) If after enrollment in a course of education that is subject to disapproval under paragraph (1) by reason of paragraph (2)(A) or (2)(B) a covered individual pursues one or more courses of education at the same public institution of higher learning while remaining continuously enrolled (other than during regularly scheduled breaks between courses, semesters or terms) at that institution of higher learning, any course so pursued by the covered individual at that institution of higher learning while so continuously enrolled shall also be subject to disapproval under paragraph (1).

(4) It shall not be grounds to disapprove a course of education under paragraph (1) if a public institution of higher learning requires a covered individual pursuing a course of education at the institution to demonstrate an intent, by means other than satisfying a physical presence requirement, to establish residency in the State in which the institution is located, or to satisfy other requirements not relating to the establishment of residency, in order to be charged tuition and fees for that course at a rate that is equal to or less than the rate the institution charges for tuition and fees for that course for residents of the State.

(5) The Secretary may waive such requirements of paragraph (1) as the Secretary considers appropriate.

(6) Disapproval under paragraph (1) shall apply only with respect to educational assistance under chapters 30 and 33 of this title.”.

(b) EFFECTIVE DATE

.—Subsection (c) of section 3679 of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to educational assistance provided for pursuit of a program of education during a quarter, semester, or term, as applicable, that begins after July 1, 2015.

applicable to Federal student aid provided through the Department of Education under Title IV of the Higher Education Act of 1965, as required under section 484B of that Act when students withdraw prior to course completion;

(g) provide educational plans for all individuals using Federal military and veterans educational benefits that detail how they will fulfill all the requirements necessary to graduate and the expected timeline of completion; and

(h) designate a point of contact for academic and financial advising (including access to disability counseling) to assist service member and veteran students and their families with the successful completion of their studies and with their job searches.

SEC. 3. Implementation of the Principles of Excellence.

(a) The Departments of Defense and Veterans Affairs shall reflect the Principles described in section 2 of this order in new agreements with educational institutions, to the extent practicable and permitted by law, concerning participation in the Yellow Ribbon Program for veterans under the Post-9/11 GI Bill or the Tuition Assistance Program for active duty service members. The Department of Veterans Affairs shall also notify all institutions participating in the Post-9/11 GI Bill program that they are strongly encouraged to comply with the Principles and shall post on the Department's website those that do.

(b) The Secretaries of Defense, Veterans Affairs, and Education, in consultation with the Director of the Bureau of Consumer Financial Protection (CFPB) and the Attorney General, shall take immediate action to implement this order, and, within 90 days from the date of this order, report to the President their progress on implementation, including promptly revising regulations, Department of Defense Instructions, guidance documents, Memoranda of Understanding, and other policies governing programs authorized or funded by the Post-9/11 GI Bill and the Tuition Assistance Program to implement the Principles, to the extent permitted by law.

(c) The Secretaries of Defense, Veterans Affairs, and Education shall develop a comprehensive strategy for developing service member and veteran student outcome measures that are comparable, to the maximum extent practicable, across Federal military and veterans educational benefit programs, including, but not limited to, the Post-9/11 GI Bill and the Tuition Assistance Program. To the extent practicable, the student outcome measures should rely on existing administrative data to minimize the reporting burden on institutions participating in these benefit programs. The student outcome measures should permit comparisons across Federal educational programs and across institutions and types of institutions. The Secretary of Education, in consultation with the Secretaries of Defense and Veterans Affairs, shall also collect from educational institutions, as part of the Integrated Postsecondary Education Data System and other data collection systems, information on the amount of funding received pursuant to the Post-9/11 GI Bill and the Tuition Assistance Program. The Secretary of Education shall make this information publicly available on the College Navigator Website.

(d) The Secretary of Veterans Affairs, in consultation with the Secretaries of Defense and Education, shall provide to prospective military and veteran students, prior to using their benefits, streamlined tools to compare educational institutions using key measures of affordability and value through the Department of Veterans Affairs' eBenefits portal. The eBenefits portal shall be updated to facilitate access to school performance information, consumer protection information, and key Federal financial aid documents. The Secretaries of Defense and Veterans Affairs shall also ensure that service members and veterans have access to that information through educational counseling offered by those Departments.

SEC. 4. Strengthening Enforcement and Compliance Mechanisms. Service members, veterans, spouses, and

other family members should have access to a strong enforcement system through which to file complaints when institutions fail to follow the Principles. Within 90 days of the date of this order, the Secretaries of Defense and Veterans Affairs, in consultation with the Secretary of Education and the Director of the CFPB, as well as with the Attorney General, as appropriate, shall submit to the President a plan to strengthen enforcement and compliance mechanisms. The plan shall include proposals to:

(a) create a centralized complaint system for students receiving Federal military and veterans educational benefits to register complaints that can be tracked and responded to by the Departments of Defense, Veterans Affairs, Justice, and Education, the CFPB, and other relevant agencies;

(b) institute uniform procedures for receiving and processing complaints across the State Approving Agencies (SAAs) that work with the Department of Veterans Affairs to review participating institutions, provide a coordinated mechanism across SAAs to alert the Department of Veterans Affairs to any complaints that have been registered at the State level, and create procedures for sharing information about complaints with the appropriate State officials, accrediting agency representatives, and the Secretary of Education;

(c) institute uniform procedures for referring potential matters for civil or criminal enforcement to the Department of Justice and other relevant agencies;

(d) establish procedures for targeted risk-based program reviews of institutions to ensure compliance with the Principles;

(e) establish new uniform rules and strengthen existing procedures for access to military installations by educational institutions. These new rules should ensure, at a minimum, that only those institutions that enter into a memorandum of agreement pursuant to section 3(a) of this order are permitted entry onto a Federal military installation for the purposes of recruitment. The Department of Defense shall include specific steps for instructing installation commanders on commercial solicitation rules and the requirement of the Principles outlined in section 2(c) of this order; and

(f) take all appropriate steps to ensure that websites and programs are not deceptively and fraudulently marketing educational services and benefits to program beneficiaries, including initiating a process to protect the term "GI Bill" and other military or veterans-related terms as trademarks, as appropriate.

SEC. 5. General Provisions. (a) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(b) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA.

SUBCHAPTER II—EDUCATIONAL ASSISTANCE

§ 3311. Educational assistance for service in the Armed Forces commencing on or after September 11, 2001: entitlement

(a) **ENTITLEMENT.**—Subject to subsections (d) and (e), each individual described in subsection (b) is entitled to educational assistance under this chapter.

(b) **COVERED INDIVIDUALS.**—An individual described in this subsection is any individual as follows:

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(1) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 36 months on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty; or

(ii) is discharged or released from active duty as described in subsection (c).

(2) An individual who—

(A) commencing on or after September 11, 2001, serves at least 30 continuous days on active duty in the Armed Forces; and

(B) after completion of service described in subparagraph (A), is discharged or released from active duty in the Armed Forces for a service-connected disability.

(3) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 30 months, but less than 36 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 36 months; or

(ii) before completion of service on active duty of an aggregate of 36 months, is discharged or released from active duty as described in subsection (c).

(4) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 24 months, but less than 30 months, on active duty in the Armed Forces (including service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 30 months; or

(ii) before completion of service on active duty of an aggregate of 30 months, is discharged or released from active duty as described in subsection (c).

(5) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 18 months, but less than 24 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 24 months; or

(ii) before completion of service on active duty of an aggregate of 24 months, is discharged or released from active duty as described in subsection (c).

(6) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 12 months, but less than 18 months, on active duty in the Armed Forces (excluding service

on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 18 months; or

(ii) before completion of service on active duty of an aggregate of 18 months, is discharged or released from active duty as described in subsection (c).

(7) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 6 months, but less than 12 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 12 months; or

(ii) before completion of service on active duty of an aggregate of 12 months, is discharged or released from active duty as described in subsection (c).

(8) An individual who—

(A) commencing on or after September 11, 2001, serves an aggregate of at least 90 days, but less than 6 months, on active duty in the Armed Forces (excluding service on active duty in entry level and skill training); and

(B) after completion of service described in subparagraph (A)—

(i) continues on active duty for an aggregate of less than 6 months; or

(ii) before completion of service on active duty of an aggregate of 6 months, is discharged or released from active duty as described in subsection (c).

(9) An individual who is the child of a person who, on or after September 11, 2001, dies in line of duty while serving on active duty as a member of the Armed Forces.

(c) COVERED DISCHARGES AND RELEASES.—A discharge or release from active duty of an individual described in this subsection is a discharge or release as follows:

(1) A discharge from active duty in the Armed Forces with an honorable discharge.

(2) A release after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service and placement on the retired list, transfer to the Fleet Reserve or Fleet Marine Corps Reserve, or placement on the temporary disability retired list.

(3) A release from active duty in the Armed Forces for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service.

(4) A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service for—

(A) a medical condition which preexisted the service of the individual as described in the applicable paragraph of subsection (b) and which the Secretary determines is not service-connected;

(B) hardship; or

(C) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense.

(d) PROHIBITION ON TREATMENT OF CERTAIN SERVICE AS PERIOD OF ACTIVE DUTY.—The following periods of service shall not be considered a part of the period of active duty on which an individual's entitlement to educational assistance under this chapter is based:

(1) A period of service on active duty of an officer pursuant to an agreement under section 2107(b) of title 10.

(2) A period of service on active duty of an officer pursuant to an agreement under section 4348, 6959, or 9348 of title 10 or section 182 of title 14.

(3) A period of service that is terminated because of a defective enlistment and induction based on—

(A) the individual's being a minor for purposes of service in the Armed Forces;

(B) an erroneous enlistment or induction;

or

(C) a defective enlistment agreement.

(e) TREATMENT OF INDIVIDUALS ENTITLED UNDER MULTIPLE PROVISIONS.—In the event an individual entitled to educational assistance under this chapter is entitled by reason of both paragraphs (4) and (5) of subsection (b), the individual shall be treated as being entitled to educational assistance under this chapter by reason of paragraph (5) of subsection (b).

(f) MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP.—

(1) IN GENERAL.—Educational assistance payable by reason of paragraph (9) of subsection (b) shall be known as the "Marine Gunnery Sergeant John David Fry scholarship".

(2) DEFINITION OF CHILD.—For purposes of that paragraph, the term "child" includes a married individual or an individual who is above the age of twenty-three years.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2359; amended Pub. L. 111-32, title X, § 1002(a), June 24, 2009, 123 Stat. 1889; Pub. L. 111-377, title I, § 101(b), (c), Jan. 4, 2011, 124 Stat. 4107.)

AMENDMENTS

2011—Subsec. (c)(4). Pub. L. 111-377, § 101(b), substituted "A discharge or release from active duty in the Armed Forces after service on active duty in the Armed Forces characterized by the Secretary concerned as honorable service" for "A discharge or release from active duty in the Armed Forces" in introductory provisions.

Subsec. (d)(2). Pub. L. 111-377, § 101(c), inserted "or section 182 of title 14" before period at end.

2009—Subsec. (b)(9). Pub. L. 111-32, § 1002(a)(1), added par. (9).

Subsec. (f). Pub. L. 111-32, § 1002(a)(2), added subsec. (f).

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, § 101(d)(4), (6), Jan. 4, 2011, 124 Stat. 4108, provided that:

"(4) HONORABLE SERVICE REQUIREMENT.—The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Jan. 4, 2011], and shall apply with respect to discharges and releases from the Armed Forces that occur on or after that date.

"(5) SERVICE IN CONNECTION WITH ATTENDANCE AT COAST GUARD ACADEMY.—The amendment made by subsection (c) [amending this section] shall take effect on the date of the enactment of this Act, and shall apply with respect to individuals entering into agreements on service in the Coast Guard on or after that date."

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-32, title X, § 1002(d), June 24, 2009, 123 Stat. 1890, provided that:

"(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 3313 and 3321 of this title] shall take effect on August 1, 2009.

"(2) APPLICABILITY.—The Secretary of Veterans Affairs shall begin making payments to individuals entitled to educational assistance by reason of paragraph (9) of section 3311(b) of title 38, United States Code, as added by subsection (a), by not later than August 1, 2010. In the case of an individual entitled to educational assistance by reason of such paragraph for the period beginning on August 1, 2009, and ending on July 31, 2010, the Secretary shall make retroactive payments to such individual for such period by not later than August 1, 2010."

§ 3312. Educational assistance: duration

(a) IN GENERAL.—Subject to section 3695 and except as provided in subsections (b) and (c), an individual entitled to educational assistance under this chapter is entitled to a number of months of educational assistance under section 3313 equal to 36 months.

(b) CONTINUING RECEIPT.—The receipt of educational assistance under section 3313 by an individual entitled to educational assistance under this chapter is subject to the provisions of section 3321(b)(2).

(c) DISCONTINUATION OF EDUCATION FOR ACTIVE DUTY.—

(1) IN GENERAL.—Any payment of educational assistance described in paragraph (2) shall not—

(A) be charged against any entitlement to educational assistance of the individual concerned under this chapter; or

(B) be counted against the aggregate period for which section 3695 limits the individual's receipt of educational assistance under this chapter.

(2) DESCRIPTION OF PAYMENT OF EDUCATIONAL ASSISTANCE.—Subject to paragraph (3), the payment of educational assistance described in this paragraph is the payment of such assistance to an individual for pursuit of a course or courses under this chapter if the Secretary finds that the individual—

(A)(i) in the case of an individual not serving on active duty, had to discontinue such course pursuit as a result of being called or ordered to serve on active duty under section 688, 12301(a), 12301(d), 12301(g), 12302, or 12304 of title 10; or

(ii) in the case of an individual serving on active duty, had to discontinue such course pursuit as a result of being ordered to a new duty location or assignment or to perform an increased amount of work; and

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(4) Such other matters as the Secretary and the college or university concerned jointly consider appropriate.

(d) **MATCHING CONTRIBUTIONS.**—

(1) **IN GENERAL.**—In instances where the educational assistance provided an individual under section 3313(c)(1)(A) does not cover the full cost of tuition and mandatory fees at a college or university, the Secretary shall provide up to 50 percent of the remaining costs for tuition and mandatory fees if the college or university voluntarily enters into an agreement with the Secretary to match an equal percentage of any of the remaining costs for such tuition and fees.

(2) **USE OF APPROPRIATED FUNDS.**—Amounts available to the Secretary under section 3324(b) for payment of the costs of this chapter shall be available to the Secretary for purposes of paragraph (1).

(e) **OUTREACH.**—The Secretary shall make available on the Internet website of the Department available to the public a current list of the colleges and universities participating in the program under this section. The list shall specify, for each college or university so listed, appropriate information on the agreement between the Secretary and such college or university under subsection (c).

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2368.)

PAT TILLMAN VETERANS' SCHOLARSHIP INITIATIVE

Pub. L. 111-275, title I, § 107, Oct. 13, 2010, 124 Stat. 2872, provided that:

"(a) **AVAILABILITY OF SCHOLARSHIP INFORMATION.**—By not later than June 1, 2011, the Secretary of Veterans Affairs shall include on the Internet website of the Department of Veterans Affairs a list of organizations that provide scholarships to veterans and their survivors and, for each such organization, a link to the Internet website of the organization.

"(b) **MAINTENANCE OF SCHOLARSHIP INFORMATION.**—The Secretary of Veterans Affairs shall make reasonable efforts to notify schools and other appropriate entities of the opportunity to be included on the Internet website of the Department of Veterans Affairs pursuant to subsection (a)."

§ 3318. Additional assistance: relocation or travel assistance for individual relocating or traveling significant distance for pursuit of a program of education

(a) **ADDITIONAL ASSISTANCE.**—Each individual described in subsection (b) shall be paid additional assistance under this section in the amount of \$500.

(b) **COVERED INDIVIDUALS.**—An individual described in this subsection is any individual entitled to educational assistance under this chapter—

(1) who resides in a county (or similar entity utilized by the Bureau of the Census) with less than seven persons per square mile, according to the most recent decennial Census; and

(2) who—

(A) physically relocates a distance of at least 500 miles in order to pursue a program of education for which the individual utilizes educational assistance under this chapter; or

(B) travels by air to physically attend an institution of higher learning for pursuit of

such a program of education because the individual cannot travel to such institution by automobile or other established form of transportation due to an absence of road or other infrastructure.

(c) **PROOF OF RESIDENCE.**—For purposes of subsection (b)(1), an individual may demonstrate the individual's place of residence utilizing any of the following:

(1) DD Form 214, Certification of Release or Discharge from Active Duty.

(2) The most recent Federal income tax return.

(3) Such other evidence as the Secretary shall prescribe for purposes of this section.

(d) **SINGLE PAYMENT OF ASSISTANCE.**—An individual is entitled to only one payment of additional assistance under this section.

(e) **NO CHARGE AGAINST ENTITLEMENT.**—Any amount paid an individual under this section is in addition to any other educational assistance benefits provided the individual under this chapter.

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2369; amended Pub. L. 111-275, title X, § 1001(g)(6), Oct. 13, 2010, 124 Stat. 2896.)

AMENDMENTS

2010—Subsec. (b)(2)(B). Pub. L. 111-275 substituted "higher learning" for "higher education".

§ 3319. Authority to transfer unused education benefits to family members

(a) **IN GENERAL.**—

(1) Subject to the provisions of this section, the Secretary concerned may permit an individual described in subsection (b) who is entitled to educational assistance under this chapter to elect to transfer to one or more of the dependents specified in subsection (c) a portion of such individual's entitlement to such assistance, subject to the limitation under subsection (d).

(2) The purpose of the authority in paragraph (1) is to promote recruitment and retention in the uniformed services. The Secretary concerned may exercise the authority for that purpose when authorized by the Secretary of Defense in the national security interests of the United States.

(b) **ELIGIBLE INDIVIDUALS.**—An individual referred to in subsection (a) is any member of the uniformed services who, at the time of the approval of the individual's request to transfer entitlement to educational assistance under this section, has completed at least—

(1) six years of service in the armed forces and enters into an agreement to serve at least four more years as a member of the uniformed services; or

(2) the years of service as determined in regulations pursuant to subsection (j).

(c) **ELIGIBLE DEPENDENTS.**—An individual approved to transfer an entitlement to educational assistance under this section may transfer the individual's entitlement as follows:

(1) To the individual's spouse.

(2) To one or more of the individual's children.

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(3) To a combination of the individuals referred to in paragraphs (1) and (2).

(d) **LIMITATION ON MONTHS OF TRANSFER.**—The total number of months of entitlement transferred by a individual under this section may not exceed 36 months. The Secretary of Defense may prescribe regulations that would limit the months of entitlement that may be transferred under this section to no less than 18 months.

(e) **DESIGNATION OF TRANSFEREE.**—An individual transferring an entitlement to educational assistance under this section shall—

(1) designate the dependent or dependents to whom such entitlement is being transferred;

(2) designate the number of months of such entitlement to be transferred to each such dependent; and

(3) specify the period for which the transfer shall be effective for each dependent designated under paragraph (1).

(f) **TIME FOR TRANSFER; REVOCATION AND MODIFICATION.**—

(1) **TIME FOR TRANSFER.**—Subject to the time limitation for use of entitlement under section 3321 an individual approved to transfer entitlement to educational assistance under this section may transfer such entitlement only while serving as a member of the armed forces when the transfer is executed.

(2) **MODIFICATION OR REVOCATION.**—

(A) **IN GENERAL.**—An individual transferring entitlement under this section may modify or revoke at any time the transfer of any unused portion of the entitlement so transferred.

(B) **NOTICE.**—The modification or revocation of the transfer of entitlement under this paragraph shall be made by the submittal of written notice of the action to both the Secretary concerned and the Secretary of Veterans Affairs.

(3) **PROHIBITION ON TREATMENT OF TRANSFERRED ENTITLEMENT AS MARITAL PROPERTY.**—Entitlement transferred under this section may not be treated as marital property, or the asset of a marital estate, subject to division in a divorce or other civil proceeding.

(g) **COMMENCEMENT OF USE.**—A dependent to whom entitlement to educational assistance is transferred under this section may not commence the use of the transferred entitlement until—

(1) in the case of entitlement transferred to a spouse, the completion by the individual making the transfer of at least—

(A) six years of service in the armed forces; or

(B) the years of service as determined in regulations pursuant to subsection (j); or

(2) in the case of entitlement transferred to a child, both—

(A) the completion by the individual making the transfer of at least—

(i) ten years of service in the armed forces; or

(ii) the years of service as determined in regulations pursuant to subsection (j); and

(B) either—

(i) the completion by the child of the requirements of a secondary school diploma (or equivalency certificate); or

(ii) the attainment by the child of 18 years of age.

(h) **ADDITIONAL ADMINISTRATIVE MATTERS.**—

(1) **USE.**—The use of any entitlement to educational assistance transferred under this section shall be charged against the entitlement of the individual making the transfer at the rate of one month for each month of transferred entitlement that is used.

(2) **NATURE OF TRANSFERRED ENTITLEMENT.**—Except as provided under subsection (e)(2) and subject to paragraphs (5) and (6)—

(A) in the case of entitlement transferred to a spouse under this section, the spouse is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred; or

(B) in the case of entitlement transferred to a child under this section, the child is entitled to educational assistance under this chapter in the same manner as the individual from whom the entitlement was transferred as if the individual were not on active duty.

(3) **RATE OF PAYMENT.**—The monthly rate of educational assistance payable to a dependent to whom entitlement referred to in paragraph (2) is transferred under this section shall be payable—

(A) in the case of a spouse, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer; or

(B) in the case of a child, at the same rate as such entitlement would otherwise be payable under this chapter to the individual making the transfer as if the individual were not on active duty.

(4) **DEATH OF TRANSFEROR.**—The death of an individual transferring an entitlement under this section shall not affect the use of the entitlement by the dependent to whom the entitlement is transferred.

(5) **LIMITATION ON AGE OF USE BY CHILD TRANSFEREES.**—

(A) **IN GENERAL.**—A child to whom entitlement is transferred under this section may use the benefits transferred without regard to the 15-year delimiting date specified in section 3321, but may not, except as provided in subparagraph (B), use any benefits so transferred after attaining the age of 26 years.

(B) **PRIMARY CAREGIVERS OF SERIOUSLY INJURED MEMBERS OF THE ARMED FORCES AND VETERANS.**—

(i) **IN GENERAL.**—Subject to clause (ii), in the case of a child who, before attaining the age of 26 years, is prevented from pursuing a chosen program of education by reason of acting as the primary provider of personal care services for a veteran or member of the Armed Forces under section 1720G(a), the child may use the benefits beginning on the date specified in clause (iii) for a period whose length is specified in clause (iv).

(ii) INAPPLICABILITY FOR REVOCATION.—Clause (i) shall not apply with respect to the period of an individual as a primary provider of personal care services if the period concludes with the revocation of the individual's designation as such a primary provider under section 1720G(a)(7)(D).

(iii) DATE FOR COMMENCEMENT OF USE.—The date specified in this clause for the beginning of the use of benefits by a child under clause (i) is the later of—

(I) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i);

(II) the date on which it is reasonably feasible, as determined under regulations prescribed by the Secretary, for the child to initiate or resume the use of benefits; or

(III) the date on which the child attains the age of 26 years.

(iv) LENGTH OF USE.—The length of the period specified in this clause for the use of benefits by a child under clause (i) is the length equal to the length of the period that—

(I) begins on the date on which the child begins acting as the primary provider of personal care services for the veteran or member concerned as described in clause (i); and

(II) ends on the later of—

(aa) the date on which the child ceases acting as the primary provider of personal care services for the veteran or member as described in clause (i); or

(bb) the date on which it is reasonably feasible, as so determined, for the child to initiate or resume the use of benefits.

(6) SCOPE OF USE BY TRANSFEREES.—The purposes for which a dependent to whom entitlement is transferred under this section may use such entitlement shall include the pursuit and completion of the requirements of a secondary school diploma (or equivalency certificate).

(7) ADDITIONAL ADMINISTRATIVE PROVISIONS.—The administrative provisions of this chapter shall apply to the use of entitlement transferred under this section, except that the dependent to whom the entitlement is transferred shall be treated as the eligible individual for purposes of such provisions.

(i) OVERPAYMENT.—

(1) JOINT AND SEVERAL LIABILITY.—In the event of an overpayment of educational assistance with respect to a dependent to whom entitlement is transferred under this section, the dependent and the individual making the transfer shall be jointly and severally liable to the United States for the amount of the overpayment for purposes of section 3685.

(2) FAILURE TO COMPLETE SERVICE AGREEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if an individual transferring entitlement under this section fails to

complete the service agreed to by the individual under subsection (b)(1) in accordance with the terms of the agreement of the individual under that subsection, the amount of any transferred entitlement under this section that is used by a dependent of the individual as of the date of such failure shall be treated as an overpayment of educational assistance under paragraph (1).

(B) EXCEPTION.—Subparagraph (A) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

(i) by reason of the death of the individual; or

(ii) for a reason referred to in section 3311(c)(4).

(j) REGULATIONS.—(1) The Secretary of Defense, in coordination with the Secretary of Veterans Affairs, shall prescribe regulations for purposes of this section.

(2) Such regulations shall specify—

(A) the manner of authorizing the transfer of entitlements under this section;

(B) the eligibility criteria in accordance with subsection (b); and

(C) the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2).

(Added Pub. L. 110-252, title V, § 5003(a)(1), June 30, 2008, 122 Stat. 2369; amended Pub. L. 111-275, title X, § 1001(g)(7), Oct. 13, 2010, 124 Stat. 2896; Pub. L. 111-377, title I, §§ 110(a), (b), 112(b), title II, § 201(b), Jan. 4, 2011, 124 Stat. 4120, 4122, 4123.)

AMENDMENTS

2011—Subsec. (a). Pub. L. 111-377, § 110(b), designated existing provisions as par. (1), substituted "Subject to the provisions of this section, the Secretary concerned may permit" for "Subject to the provisions of this section, the Secretary of Defense may authorize the Secretary concerned, to promote recruitment and retention of members of the Armed Forces, to permit", and added par. (2).

Subsec. (b). Pub. L. 111-377, § 110(a)(1), substituted "uniformed services" for "Armed Forces" in introductory provisions and par. (1).

Subsec. (b)(2). Pub. L. 111-377, § 112(b), which directed substitution of "to subsection (j)" for "to section (k)", could not be executed because of prior amendment by Pub. L. 111-275. See 2010 Amendment note below.

Subsec. (h)(5). Pub. L. 111-377, § 201(b), amended par. (5) generally. Prior to amendment, text read as follows: "A child to whom entitlement is transferred under this section may use the benefit without regard to the 15-year delimiting date, but may not use any entitlement so transferred after attaining the age of 26 years."

Subsec. (k). Pub. L. 111-377, § 110(a)(2), struck out subsec. (k). Text read as follows: "Notwithstanding section 101(23), in this section, the term 'Secretary concerned' means—

"(1) the Secretary of the Army with respect to matters concerning the Army;

"(2) the Secretary of the Navy with respect to matters concerning the Navy or the Marine Corps;

"(3) the Secretary of the Air Force with respect to matters concerning the Air Force; and

"(4) the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Homeland Security when it is not operating as a service in the Navy."

2010—Subsec. (b)(2). Pub. L. 111-275 substituted "subsection (j)" for "section (k)".

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 111-377, title I, § 110(c), Jan. 4, 2011, 124 Stat. 4120, provided that: "The amendments made by this

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section [amending this section] shall take effect on August 1, 2011."

Amendment by section 201(b) of Pub. L. 111-377 effective Aug. 1, 2011, and applicable with respect to preventions and suspension of pursuit of programs of education that commence on or after that date, see section 201(d) of Pub. L. 111-377, set out as a note under section 3031 of this title.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§ 3321. Time limitation for use of and eligibility for entitlement

(a) IN GENERAL.—Except as provided in this section, the period during which an individual entitled to educational assistance under this chapter may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's last discharge or release from active duty.

(b) EXCEPTIONS.—

(1) APPLICABILITY OF SECTION 3031 TO RUNNING OF PERIOD.—Subsections (b), (c), and (d) of section 3031 shall apply with respect to the running of the 15-year period described in subsection (a) of this section in the same manner as such subsections apply under section 3031 with respect to the running of the 10-year period described in section 3031(a).

(2) APPLICABILITY OF SECTION 3031 TO TERMINATION.—Section 3031(f) shall apply with respect to the termination of an individual's entitlement to educational assistance under this chapter in the same manner as such section applies to the termination of an individual's entitlement to educational assistance under chapter 30, except that, in the administration of such section for purposes of this chapter, the reference to section 3013 shall be deemed to be a reference to section 3312 of this title.

(3) DETERMINATION OF LAST DISCHARGE OR RELEASE.—For purposes of subsection (a), an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of less than 90 days of continuous service, unless the individual is discharged or released as described in section 3311(b)(2).

(4) APPLICABILITY TO CHILDREN OF DECEASED MEMBERS.—The period during which an individual entitled to educational assistance by reason of section 3311(b)(9) may use such individual's entitlement expires at the end of the 15-year period beginning on the date of such individual's eighteenth birthday.

(Added Pub. L. 110-252, title V, §5003(a)(1), June 30, 2008, 122 Stat. 2373; amended Pub. L. 111-32, title X, §1002(c), June 24, 2009, 123 Stat. 1889; Pub. L. 111-275, title X, §1001(g)(8), Oct. 13, 2010, 124 Stat. 2896.)

AMENDMENTS

2010—Subsec. (b)(2). Pub. L. 111-275 substituted "section 3312 of this title" for "3312".

2009—Subsec. (b)(4). Pub. L. 111-32 added par. (4).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-32 effective Aug. 1, 2009, see section 1002(d)(1) of Pub. L. 111-32, set out as a note under section 3311 of this title.

§ 3322. Bar to duplication of educational assistance benefits

(a) IN GENERAL.—An individual entitled to educational assistance under this chapter who is also eligible for educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 or section 510 of title 10, or the provisions of the Hostage Relief Act of 1980 (Public Law 96-449; 5 U.S.C. 5561 note) may not receive assistance under two or more such programs concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which chapter or provisions to receive educational assistance.

(b) INAPPLICABILITY OF SERVICE TREATED UNDER EDUCATIONAL LOAN REPAYMENT PROGRAMS.—A period of service counted for purposes of repayment of an education loan under chapter 109 of title 10 may not be counted as a period of service for entitlement to educational assistance under this chapter.

(c) SERVICE IN SELECTED RESERVE.—An individual who serves in the Selected Reserve may receive credit for such service under only one of this chapter, chapter 30 of this title, and chapters 1606 and 1607 of title 10, and shall elect (in such form and manner as the Secretary may prescribe) under which chapter such service is to be credited.

(d) ADDITIONAL COORDINATION MATTERS.—In the case of an individual entitled to educational assistance under chapter 30, 31, 32, or 35 of this title, chapter 107, 1606, or 1607 of title 10, or the provisions of the Hostage Relief Act of 1980, or making contributions toward entitlement to educational assistance under chapter 30 of this title, as of August 1, 2009, coordination of entitlement to educational assistance under this chapter, on the one hand, and such chapters or provisions, on the other, shall be governed by the provisions of section 5003(c) of the Post-9/11 Veterans Educational Assistance Act of 2008.

(e) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—An individual entitled to educational assistance under both sections 3311(b)(9) and 3319 may not receive assistance under both provisions concurrently, but shall elect (in such form and manner as the Secretary may prescribe) under which provision to receive educational assistance.

(f) BAR TO RECEIPT OF COMPENSATION AND PENSION AND MARINE GUNNERY SERGEANT JOHN DAVID FRY SCHOLARSHIP ASSISTANCE.—The commencement of a program of education under section 3311(b)(9) shall be a bar to the following:

(1) Subsequent payments of dependency and indemnity compensation or pension based on the death of a parent to an eligible person over the age of 18 years by reason of pursuing a course in an educational institution.

(2) Increased rates, or additional amounts, of compensation, dependency and indemnity compensation, or pension because of such a person, whether eligibility is based upon the death of the parent.

(g) BAR TO CONCURRENT RECEIPT OF TRANSFERRED EDUCATION BENEFITS.—A spouse or child who is entitled to educational assistance under

management and budget, shall make semiannual transfers from the general fund appropriation for the maintenance of the national guard to the national guard operating fund.

37-01-39. Expenditure of funds.

All expenditures of funds for the maintenance and operation of the national guard and the office of the adjutant general must be made upon vouchers signed and approved by the adjutant general or such other officer or official as may be designated by the adjutant general. Upon approval of such vouchers by the office of the budget, warrant-checks must be prepared by the office of management and budget for signature by the state auditor and state treasurer in accordance with such approved vouchers.

37-01-39.1. Unit funds - Maintenance and expenditure.

Each unit of the North Dakota national guard, upon approval of the adjutant general, is authorized to maintain a nonreverting unit fund for purposes as prescribed by federal law and regulations relating to unit funds of the federal military forces and to pay petty operating, equipment, and supply costs incurred by the individual units. All funds transferred by the adjutant general to the unit fund must be deposited in the unit fund and are hereby appropriated for the maintenance and operation of the unit funds. Unit funds may be expended upon authorization of the unit fund custodian designated by the adjutant general under guidelines established by the adjutant general.

37-01-40. Veteran and wartime veteran defined - Uniform service dates for wartime veterans.

1. A "veteran" is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty for reasons other than training, and who was discharged or released under other than dishonorable conditions. A discharge reflecting "expiration of term of service" or "completion of required service" or words to that effect qualifies the shorter term of service as making the individual a veteran.
2. A "wartime veteran" is an individual who served in the active military forces, during a period of armed conflict or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released under other than dishonorable conditions. "Wartime veteran" also includes an individual who died in the line of duty in the active military forces, as determined by the armed forces.
3. Period of service dates for a wartime veteran begins with the date of any declaration of war by the Congress of the United States or presidential proclamation beginning hostilities or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the Congress of the United States and dates determined by the United States department of defense.
4. Current uniform period of service dates for periods of armed conflict include:
 - a. The period beginning December 7, 1941, through December 31, 1946, known as World War II;
 - b. The period beginning June 27, 1950, through January 31, 1955, known as the Korean war;
 - c. The period beginning August 5, 1964, through May 7, 1975, known as the Vietnam war;
 - d. The period beginning August 2, 1990, through January 2, 1992, known as the gulf war; and
 - e. The period beginning September 11, 2001, and ending on a date prescribed by presidential proclamation or by Congress as the last day of operation Iraqi freedom or operation enduring freedom, whichever occurs later.

5. The department of veterans' affairs shall maintain a list of all period of service dates for emergency conditions in which the armed forces expeditionary medal has been awarded.

37-01-41. Claims against the national guard.

1. Any individual injured by an activity of the North Dakota national guard may submit a claim to the adjutant general. As used in this section, "claim" means a monetary demand upon the state for personal injury or property damage arising from activities of the national guard while on state active duty.
2. The adjutant general may approve a claim for less than two thousand five hundred dollars. If the claim is approved by the adjutant general, the adjutant general shall apply to the emergency commission for an amount from the contingency fund sufficient to pay the claim. It must be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and the commission shall direct the transfer of the requested amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
3. The adjutant general shall forward any claim exceeding two thousand five hundred dollars to the emergency commission with the adjutant general's recommendation. If the claim is approved by the emergency commission, it must be conclusively presumed that an emergency exists, and the commission shall direct the transfer of the approved amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
4. Decisions of the adjutant general or the emergency commission partially or totally denying a claim may not be appealed to any court of this state.
5. Claims may not be submitted to the legislative assembly unless the claim has been partially or totally denied by the adjutant general or the emergency commission.

37-01-42. Honorary high school diplomas - Veterans of World War II and Korean and Vietnam conflicts.

1. Any World War II veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between September 16, 1940, and December 31, 1946, prior to completing the necessary high school graduation requirements; and
 - b. The veteran was honorably discharged from the United States armed forces.
2. Any Korean conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran was a member of the United States armed forces between June 27, 1950, and January 31, 1955; and
 - b. The veteran was honorably discharged from the United States armed forces.
3. Any Vietnam conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between February 28, 1961, and May 7, 1975; and
 - b. The veteran was honorably discharged from the United States armed forces.
4. In order to receive an honorary high school diploma, the veteran or a representative of the veteran shall complete an application on a form prescribed by the superintendent of public instruction. A county veterans' service officer shall certify the veteran's status as an honorably discharged veteran who served during the qualifying period to the superintendent of public instruction. The superintendent of public instruction shall forward the application to the school district in which the veteran last attended school before induction. If the school district no longer exists, the application must be forwarded to the school district that has jurisdiction. If a school district decides not to issue a diploma under this program, the veteran may apply to the superintendent of public instruction for the diploma.

Additional Background Information for HB 1127

- On October 29, 2014, the Department of Veterans Affairs sent a letter to the Governors requesting information on intent to comply with the requirements of section 702 of the Veterans Access, Choice, and Accountability Act of 2014 (the Choice Act).
- These statutory provisions require VA to disapprove programs of education under the Post-9/11 GI Bill and Montgomery GI Bill at public institutions of higher learning if the school charges qualifying Veterans and dependents tuition and fees in excess of the rate for resident students. Section 702 is effective for terms beginning after July 1, 2015.
- VA cannot compel a school to charge covered individuals the in-State rates

Funds Received from Post 9/11 GI Bill & Montgomery GI Bill

(source: USDVA Education Services)

FFY13

Chapter 33	Chapter 30	Chapter 1606/1607
16.9 Million	1.2 Million	2 Million

FFY14

Chapter 33	Chapter 30	Chapter 1606/1607
19 Million	1.1 Million	1.7 Million

Veteran Enrollment @ ND College/Universities

(source: ND College & University Certifying Officials Report)

2012-2013 Academic Year: 2,258

2013-2014 Academic Year: 2,416

Approved ND Facilities for Veterans Receiving VA Education and Training Benefits

IHL-Institutions of Higher Learning: 27

NCD: Non College Degree Facilities: 9

Apprenticeship Facilities: 38

On-the-Job Facilities: 26

Veteran Enrollment Report

	Fall 2009		Spring 2010		Fall 2010		Spring 2011		Fall 2011		Spring 2012		Fall 2012		Spring 2013		Fall 2013		Spring 2014		Fall 2014		Spring 2015	
Institution	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans	Enrolled Veterans	Chapter 33 Veterans
Bismarck State College	173	20	188	41	220	65	234	70	234	81	220	86	200	90	208	83	197	98	183	95	205	115		
Cankdesia Cikana Community College	2	0	0	0	2	0	2	0	2	0	2	0	4	1	8	1	8	3	7	2	1	1		
Central Michigan University MAFB	0	0	2	2	2	2	8	8	3	8	1	0	0	0	0	0	1	1	1	1	0	0		
Dakota College Bottineau	10	3	17	17	18	8	24	17	17	9	16	9	82	21	21	13	21	13	24	18	14	18		
Dickinson State University	33	11	52	20	57	25	46	21	54	28	55	28	67	31	57	25	37	14	33	15	35	14		
Embry-Riddle Aero University MAFB	4	3	5	3	1	1	22	17	3	2	2	1	3	2	8	3	5	4	4	5	1	0		
Fort Berthold Community College	4	0	7	0	6	1	17	0	4	2	5	2	2	1	10	1	5	2	4	2	1	1		
University of Jamestown	15	3	16	5	22	12	22	14	24	13	21	12	19	14	17	11	16	9	18	9	14	9		
Lake Region State College	60	21	78	30	43	20	46	25	35	52	58	32	52	34	66	44	50	35	49	37	221	44		
Mayville State University	11	5	14	5	22	9	16	9	25	10	22	8	33	11	28	8	34	13	43	18	28	14		
Minot State University	194	65	215	76	230	112	241	127	218	125	154	114	220	146	210	156	206	164	199	162	221	170		
North Dakota State College of Science	12	12	12	12	90	26	95	30	86	34	78	30	91	39	96	35	88	32	82	28	81	30		
North Dakota State University	334	37	370	16	455	144	442	149	447	160	435	163	475	192	462	186	484	199	456	192	462	194		
Park University GFAB	76	19	27	7	26	8	38	11	30	23	31	25	27	26	33	26	22	19	22	19	25	19		
Park University MAFB	46	14	29	9	29	13	26	12	19	11	22	15	26	19	25	19	21	19	41	36	31	28		
Rasmussen College-Bismarck	21	6	17	2	30	7	18	17	21	15	10	2	6	3	6	2	7	4	10	5	6	2		
Rasmussen College Fargo	55	14	55	14	62	20	48	16	27	15	33	20	27	17	33	20	20	16	19	14	19	20		
Sanford College of Nursing	1	1	1	1	4	3	4	3	4	1	3	2	1	1	2	1	2	1	3	1	6	1		
Sitting Bull College	8	0	6	0	8	1	6	2	4	0	6	2	5	4	2	1	7	1	6	0	4	3		
Trinity Bible College	3	3	3	3	12	4	12	4	8	6	5	4	6	4	6	4	21	19	8	7	7	5		
Turtle Mountain Community College	1	1	1	1	13	3	14	3	12	5	15	5	15	3	13	3	10	8	11	2	9	4		
United Tribes Technical College	17	1	16	0	20	4	25	5	18	0	17	8	4	4	2	2	15	4	15	4	0	0		
University of Mary	28	5	24	42	197	71	139	59	136	71	135	68	146	88	151	75	161	74	169	69	160	70		
University of North Dakota	605	103	640	117	709	224	970	200	508	238	562	198	738	194	877	282	744	195	762	200	812	267		
Valley City State University	14	1	19	6	29	11	22	12	24	8	27	11	29	11	26	8	24	10	27	10	27	10		
Veterans Education Training	1	0	1	0	1	0	1	0	22	0	15	0	14	0	12	7	16	4	17	3	17	1		
Williston State College	16	10	18	10	18	10	23	13	18	4	21	9	15	11	12	6	20	9	13	6	13	7		
TOTALS	1,744	358	1,947	439	2,294	804	1,957	836	2,004	946	1,641	854	2,250	561	2,432	1,017	2,262	965	2,258	958	2,416	967		

The new Post-9/11 GI Bill (Chapter 33) is the most extensive education benefit package ever offered to our nation's Veterans, servicemembers, and their families. It has a potential to pay for their entire college education, to include housing, books and supplies. The term enrollee used in this report is defined as a person enrolled in a class, school or course of study. The Chapter 33 totals are a breakdown of total veterans enrolled. Report compiled by Rhonda Schauer, Director, SAA

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**North Dakota Public Universities and Colleges
Out of State Veteran Enrollments
Spring Semester 2015**

Name of Institution	Number of Out of State Veterans
Bismarck State College	88
Dakota College Bottineau	0
Dickinson State University	10
Lake Region State College	1
Mayville State University	5
Minot State University	54
North Dakota State College of Science	20
North Dakota State University	95
University of North Dakota	176
Valley City State University	7
Williston State College	2
Total	458

Prepared by: Rhonda Schauer, Director
North Dakota State Approving Agency
March 10, 2015