



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
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The Honorable J. Dennis Hastert
Speaker of the House
Washington, DC 20515

FEB 26 2003

Dear Mr. Speaker:

I am pleased to provide the Department of Defense plan to implement legislation concerning the transfer of Montgomery GI Bill (MGIB) entitlements to family members, as required by section 654(c) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2002, Public Law 107-107. Because the Department has no experience with a program like this, we plan to conduct a test program in the Air Force to determine how best to implement MGIB transferability. The existing legislation did not modify 38 U.S. Code 3035 to allow the Department of Veterans Affairs to accept funds from the DoD Education Benefits Fund to pay for the costs associated with the increased benefit. The FY 2003 NDAA corrects this problem.

I trust that the enclosed report will prove useful in your consideration of Defense personnel programs. Similar letters have been sent to the President of the Senate, the Chairmen and Ranking Members of the House and Senate Committees on Armed Services, the Chairmen and Ranking Members of the House and Senate Committees on Veterans' Affairs, and the Chairmen and Ranking Members of the Defense subcommittees of the Senate and House Committees on Appropriations.

Sincerely,

David S. C. Chu

Enclosure:
As stated

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“§3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills

“(a) **IN GENERAL.**—Subject to the provisions of this section, each Secretary concerned may, for the purpose of enhancing recruitment and retention of members of the Armed Forces with critical military skills and at such Secretary's sole discretion, permit an individual described in subsection (b) who is entitled to basic educational assistance under this subchapter 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).

“(b) **ELIGIBLE INDIVIDUALS.**—An individual referred to in subsection (a) is any member of the Armed Forces who, at the time of the approval by the Secretary concerned of the member's request to transfer entitlement to basic educational assistance under this section—

“(1) has completed six years of service in the Armed Forces;

“(2) either—

“(A) has a critical military skill designated by the Secretary concerned for purposes of this section; or

“(B) is in a military specialty designated by the Secretary concerned for purposes of this section as requiring critical military skills; and

“(3) enters into an agreement to serve at least four more years as a member of the Armed Forces.

“(c) **ELIGIBLE DEPENDENTS.**—An individual approved to transfer an entitlement to basic 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 an individual under this section may not exceed 18 months.

“(e) **DESIGNATION OF TRANSFEREE.**—An individual transferring an entitlement to basic 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) Subject to the time limitation for use of entitlement under section 3031 of this title, an individual approved to transfer entitlement to basic educational assistance under this section may transfer such entitlement at any time after the approval of the individual's request to transfer such entitlement without regard to whether the individual is a member of the Armed Forces when the transfer is exe-

“(2)(A) 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) 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.

“(g) **COMMENCEMENT OF USE.**—A dependent to whom entitlement to basic 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 six years of service in the Armed Forces; or

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

“(A) the completion by the individual making the transfer of 10 years of service in the Armed Forces; 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) The use of any entitlement to basic 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) Except as provided under subsection (e)(2) and subject to paragraphs (4) and (5), a dependent to whom entitlement is transferred under this section is entitled to basic educational assistance under this subchapter in the same manner and at the same rate as the individual from whom the entitlement was transferred.

“(3) 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.

“(4) Notwithstanding section 3031 of this title, a child to whom entitlement is transferred under this section may not use any entitlement so transferred after attaining the age of 26 years.

“(5) The administrative provisions of this chapter (including the provisions set forth in section 3034(a)(1) of this title) 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 veteran for purposes of such provisions.

“(6) 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).

“(i) **OVERPAYMENT.**—(1) In the event of an overpayment of basic 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 of this title.

“(2) Except as provided in paragraph (3), if an individual transferring entitlement under this section fails to complete the serv-

ice agreed to by the individual under subsection (b)(3) 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 basic educational assistance under paragraph (1).

"(3) Paragraph (2) shall not apply in the case of an individual who fails to complete service agreed to by the individual—

"(A) by reason of the death of the individual; or

"(B) for a reason referred to in section 3011(a)(1)(A)(ii)(I) of this title.

"(j) APPROVALS OF TRANSFER SUBJECT TO AVAILABILITY OF APPROPRIATIONS.—The Secretary concerned may approve transfers of entitlement to basic educational assistance under this section in a fiscal year only to the extent that appropriations for military personnel are available in that fiscal year for purposes of making deposits in the Department of Defense Education Benefits Fund under section 2006 of title 10 in that fiscal year to cover the present value of future benefits payable from the Fund for the Department of Defense portion of payments of basic educational assistance attributable to increased usage of benefits as a result of such transfers of entitlement in that fiscal year.

"(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations for purposes of this section. Such regulations shall specify the manner and effect of an election to modify or revoke a transfer of entitlement under subsection (f)(2) and shall specify the manner of the applicability of the administrative provisions referred to in subsection (h)(5) to a dependent to whom entitlement is transferred under this section.

"(l) ANNUAL REPORT.—(1) Not later than January 31 each year (beginning in 2003), the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the transfers of entitlement to basic educational assistance under this section that were approved by each Secretary concerned during the preceding fiscal year.

"(2) Each report shall set forth—

"(A) the number of transfers of entitlement under this section that were approved by such Secretary during the preceding fiscal year; or

"(B) if no transfers of entitlement under this section were approved by such Secretary during that fiscal year, a justification for such Secretary's decision not to approve any such transfers of entitlement during that fiscal year.

"(m) SECRETARY CONCERNED DEFINED.—Notwithstanding section 101(25) of this title, 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

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

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following new item:

"3020. Transfer of entitlement to basic educational assistance: members of the Armed Forces with critical military skills."

(b) TREATMENT UNDER DEPARTMENT OF DEFENSE EDUCATION BENEFITS FUND.—Section 2006(b)(2) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) The present value of future benefits payable from the Fund for the Department of Defense portion of payments of educational assistance under subchapter II of chapter 30 of title 38 attributable to increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of that title during such period."

(c) PLAN FOR IMPLEMENTATION.—Not later than June 30, 2002, the Secretary of Defense shall submit to Congress a report describing the manner in which the Secretaries of the military departments and the Secretary of Transportation propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection (a). The report shall include the regulations prescribed under subsection (k) of that section for purposes of the exercise of the authority.

(d) FUNDING FOR FISCAL YEAR 2002.—Of the amount authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2002 by section 421, \$30,000,000 may be available in fiscal year 2002 for deposit into the Department of Defense Education Benefits Fund under section 2006 of title 10, United States Code, for purposes of covering payments of amounts under subparagraph (D) of section 2006(b)(2) of such title (as added by subsection (b)), as a result of transfers of entitlement to basic educational assistance under section 3020 of title 38, United States Code (as added by subsection (a)).

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—TRICARE Program Improvements

- Sec. 701. Sub-acute and long-term care program reform.
 Sec. 702. Prosthetics and hearing aids.
 Sec. 703. Durable medical equipment.
 Sec. 704. Rehabilitative therapy.
 Sec. 705. Report on mental health benefits.
 Sec. 706. Clarification of eligibility for reimbursement of travel expenses of adult accompanying patient in travel for specialty care.
 Sec. 707. TRICARE program limitations on payment rates for institutional health care providers and on balance billing by institutional and noninstitutional health care providers.
 Sec. 708. Improvements in administration of the TRICARE program.

Subtitle B—Senior Health Care

- Sec. 711. Clarifications and improvements regarding the Department of Defense Medicare-Eligible Retiree Health Care Fund.

REPORT TO CONGRESS
ON THE
MONTGOMERY GI BILL TRANSFERABILITY
IMPLEMENTATION PLAN



OFFICE OF THE UNDER SECRETARY OF DEFENSE
(PERSONNEL AND READINESS)

January 2003

INTRODUCTION

This report is submitted in compliance with section 654(c) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2002, Public Law 107-107. This report describes the manner in which the Secretaries of the military departments, and the Secretary of Defense when the Coast Guard is operating as a service in the Navy, propose to exercise the authority granted by section 3020 of title 38, United States Code, as added by subsection 654(a). Under that authority, the Secretaries concerned may permit eligible members of the Armed Forces to transfer a portion of their Montgomery GI Bill (MGIB) eligibility to certain dependents.

HISTORY OF MONTGOMERY GI BILL (MGIB) TRANSFERABILITY

The Veterans' Benefit Improvement Act of 1996, Public Law 104-275, established the "Commission on Servicemembers and Veterans Transition Assistance," to review the adequacy and effectiveness of transition assistance programs that provide benefits and services to veterans and service members making the transition to civilian life. The Commission produced over 100 recommendations addressing 31 specific issues in five areas: (1) education; (2) employment and training; (3) health care; (4) economic equity; and (5) organizational structures. The opportunity for Servicemembers to transfer their MGIB benefits to family members was recommended as a retention tool.

Title 38, United States Code, was amended by section 654(a) of the NDAA for FY 2002 to add section 3020. Section 3020 authorizes the Secretaries of the military departments, and the Secretary of Defense with respect to the Coast Guard, or the Secretary of Transportation when it is not operating as a service in the Navy, at their sole discretion, to permit members of the Armed Forces with critical military skills to transfer a portion of their Montgomery GI Bill (MGIB) entitlement to certain dependents.

A Servicemember with critical skills who has completed at least six years of service, and agrees to serve at least four more years, may be approved by the Secretary concerned to transfer up to one half (18 months) of his or her MGIB entitlement to specific family members. After approval by the Secretary concerned, the Servicemember is required to designate in writing, which dependent or dependents will receive the benefit, and for how many months, up to the limit of 18 months, as specified in section 3020. This designation may be later modified or revoked by the Servicemember.

FUNDING

The Department of Defense (DoD) is required to make contributions to the Department of Defense Education Benefits Fund for the increased usage of benefits attributable to transferability. Section 654(d) of the NDAA for FY 2002 authorized up to \$30,000,000 to be transferred from military personnel appropriations to this fund. However, the NDAA for FY 2002 did not modify section 3035 of title 38, United States Code to allow the Department of Veterans Affairs (VA) to accept funds from the DoD Education Benefits Fund to pay for the costs associated with the increased benefit. The NDAA for FY 2003 corrects this problem.

Using assumptions consistent with those set by the Department of Defense Education Benefits Board of Actuaries, the DoD Office of the Actuary has determined the amount that the Service concerned must transfer for each Servicemember who is designated as eligible to transfer up to 18 months of benefits to a dependent. Because the Department has no experience with a program like this, the Air Force will conduct a test to determine how to best implement MGIB transferability. The Air Force test program is estimated to cost \$1,000,000. Although funds were unavailable during FY 2002, the Air Force has identified funding for the test program for FY 2003.

SERVICE PLANS

Air Force Test Program

The Air Force will offer transferability to selected groups of officers and enlisted airmen. The initial test population (approximately 200 airmen) have skills that are highly critical and hard to fill. The following criteria will apply to the Air Force test program:

- The airmen must have completed at least six years of service, but not more than 12 years, to qualify.
- The enlisted airmen must re-enlist for a minimum period of four years; officers must accept an additional four-year active duty service commitment.

The Air Force will compare retention data during the test period with similar data from the prior two years to determine if there has been significant improvement in retention rates in the impacted career fields. Additionally, the

retention behavior of these airmen will be compared against a control group of eight other critical skills. A survey will also be distributed at the end of the test period to all members who participated in the test to determine what impact the transfer of MGIB benefits had on their decision to reenlist.

Other Services

The Navy is exploring their funding options and considering transferability as part of a broader Sailor benefit program.

The Army and Coast Guard continue to support the program in concept but do not have immediate implementation plans.

The Marine Corps conducted a written survey of approximately 3,800 Marines asking about the relative value they place on MGIB transferability compared to other reenlistment programs and is reviewing the results.

IMPLEMENTATION INFORMATION

The Department developed a new form, "Transferability Program Enrollment" (DD Form 2366-2), for members to designate transfer of MGIB benefits to family members. The form will be used to verify that the family members are eligible and enrolled in the Defense Enrollment Eligibility Reporting System (DEERS) and that the member is authorized transferability.

The Department, in coordination with the Defense Manpower Data Center (DMDC) and the Services, is developing an automated MGIB Transferability tracking system using the current DMDC MGIB on-line system.

Upon completion of the test programs, the Department will develop appropriate regulations.

SUMMARY

Section 654(a) of the National Defense Authorization Act for Fiscal Year 2002 authorized the Secretaries of the Army, Navy, Air Force, and the Secretary of Defense with respect to matters concerning the Coast Guard, or the Secretary of Transportation when it is not operating as a service in the Navy, at their sole discretion, to permit members of the Armed Forces, with critical military skills, to

transfer a portion of their Montgomery GI Bill (MGIB) entitlement to certain dependents.

For FY 2003, the Air Force will conduct a test program, which will include both officer and enlisted critical skills. The other Services are generally supportive of transferability but do not have immediate plans to implement a program. The availability of funding for transferability is a concern of the Services. The Department will publish updated regulations at the end of the test period.