



THE SECRETARY OF VETERANS AFFAIRS  
WASHINGTON

April 30, 2008

The Honorable Lindsey O. Graham  
Ranking Member, Subcommittee on Personnel  
Committee on Armed Services  
United States Senate  
Washington, D.C. 20510

Dear Senator Graham:

This is in response to your April 15, 2008, letter requesting the views of the Department of Veterans Affairs (VA) on S. 22, 110th Congress, a bill "to amend title 38, United States Code, to establish a program of educational assistance for members of the Armed Forces who serve in the Armed Forces [on or] after September 11, 2001, and for other purposes."

The bill would create a new education entitlement program under title 38, United States Code, in a new Chapter 33. The program would consist of three payment types: a lump sum payment to help defray tuition costs, a monthly housing allowance, and an annual lump sum payment to help defray costs of books and supplies. The benefit is intended for individuals with post-September 10, 2001, active duty service.

With the Nation at war, we must carefully assess the sufficiency of all our programs to meet the needs of today's veterans. In his State of the Union address, the President advocated an important enhancement of the Montgomery GI Bill, the transferability of entitlement from servicemembers to their spouses and children. This Administration priority, which has been submitted to Congress as draft legislation, would benefit those members committed to a career in service. It is an initiative our senior uniformed leaders enthusiastically support and one that is supportive of the current makeup and retention of the all-volunteer force.

Evaluation of any further program enhancements must take into account all foreseeable consequences, intended and unintended. Secretary of Defense Gates has notified Chairman Levin of the critical elements needed in our education programs to strengthen the all-volunteer force. He indicated that negative retention effects may begin when the value of the monthly education benefit exceeds about \$1500. For that reason, and because of other concerns stated in this letter, we are unable to support S. 22.

At its highest benefit level, the bill would provide the amount of tuition and fees for the individual's program of education, not to exceed the maximum amount of tuition and fees charged for in-state students at the state's highest-cost public institution in the state in which the student is enrolled. This benefit would be paid to the student prior to the start of the term in the form of a voucher redeemable by the school. As discussed below, in certain instances where the benefit level does not cover the cost of tuition, VA and the educational institution could agree to cover the unmet expense.

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In addition to tuition and fees, the program would pay an annual stipend of up to \$1,000 for the cost of books and supplies. This benefit would be payable prior to the start of the term. The bill would also provide a monthly housing stipend equal to the basic allowance for housing (BAH) payable by the Department of Defense (under section 403 of title 37) to an E-5 with dependents in the region of the institution where the student is enrolled.

For active duty service of less than 36 months, a percentage of the maximum tuition payment, housing stipend, and books/supplies stipend would be paid, ranging from 40 percent for at least 90 days of service, to 90 percent for at least 30 months but less than 36 months of service. For those with less than 18 months of active duty service, total creditable active duty service would not include months of basic training or skill training.

The program would provide 36 months of entitlement that must be used during the 15 years following release from the latest period of qualifying active duty service of 90 days or more. All programs approved for benefits under the Montgomery GI Bill—Active Duty would be approved for the purposes of payment of benefits under chapter 33. Individuals pursuing a program of apprenticeship or other on-the-job training would be eligible for a housing stipend. Individuals pursuing flight training would receive a tuition payment and a housing stipend. Individuals on active duty, however, would not be eligible for the housing stipend.

Individuals who receive a college loan repayment incentive (from the Department of Defense (DoD)), participate in the Senior ROTC scholarship program, or who are cadets at service academies could become eligible under Chapter 33. However, they could not use the period of service they were obligated to serve in connection with one of the aforementioned programs to gain Chapter 33 eligibility. Those individuals currently eligible for Montgomery GI Bill—Active Duty (MGIB-AD aka Chapter 30), Montgomery GI Bill—Selected Reserve (MGIB-SR, Chapter 1606), or the Reserve Educational Assistance Program (REAP, Chapter 1607) could make an irrevocable election to receive benefits under Chapter 33. MGIB-AD individuals electing Chapter 33 would receive from VA a refund of the \$1200 they paid under MGIB-AD, as well as any additional contributions they made to increase their MGIB-AD benefits.

This bill would also create the “Yellow Ribbon G.I. Education Enhancement Program.” Under the “Yellow Ribbon” provisions, in instances where the benefit level would not cover the cost of tuition, VA and the educational institution could enter into an agreement to cover the unmet expense. VA would be limited to matching 50% of the unmet costs. This benefit would be available only to individuals with 36 months of post-September 10, 2001 service or those discharged from active duty because of service-connected disability.

Section 3323 of proposed Chapter 33 would require VA and DoD jointly to prescribe regulations indicating the manner in which servicemembers would be notified of the benefits, limitations, procedures, eligibility requirements, and other aspects of chapter 33, and when the notification would occur.

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We estimate that enactment of S. 22 would result in benefit costs of \$4.1 billion during the first year, \$29.9 billion for five years, and \$74.2 billion over ten years. In addition, the implementation of the program would also entail administrative costs of \$74.9 million during the first year and \$289 million over ten years.

We offer the following comments on how the provisions of S. 22 would affect program implementation:

- The bill would become effective on the date of enactment. VA does not now have a payment system or the appropriate number of trained personnel to administer the program. S. 22 does not contain provisions to fund VA for the significant additional general operating and information technology expenses required to administer this program. Furthermore, several of the provisions in the bill require VA to prescribe regulations. If the bill is to become effective on the date of enactment, all necessary rules for administering the program should be contained in the bill.
- Section 3313(j) provides that tuition expenses shall be paid to the individual concerned in the form of a voucher or other credit redeemable by the educational institution as the Secretary shall prescribe. The bill contains no requirement that an educational institution accept a voucher payable to the student. Moreover, it would be less cumbersome for VA to pay the institution directly.
- Tuition payments would be made in a lump-sum payment before the enrollment period begins. If a student does not attend, or withdraws from the program of education, large overpayments would result. In addition, it is not clear from the bill whether the student would be eligible for any portion of the benefits disbursed if he or she were to withdraw from all or some classes.
- The bill's "Yellow Ribbon" provisions would require VA to enter into a memorandum of understanding (MOU) with each participating educational institution. Entering into a MOU with proprietary institutions would be a significant administrative burden.
- It is not clear whether an individual training less than half-time is eligible for the full housing stipend. If the intent is that each student is eligible for a full housing stipend, an individual attending school less than half-time could receive a full housing stipend for 72 months.
- An additional concern about the housing stipend is with respect to distance education. Housing stipends would be based on BAH rates where the school is located versus the student's residence. This could prompt some students to enroll in online learning programs at schools with the highest BAH rate.
- Section 3321(b)(3) provides, for the purpose of determining an individual's time limitation to use benefits, that an individual's last discharge or release from active duty shall not include any discharge or release from a period of active duty of

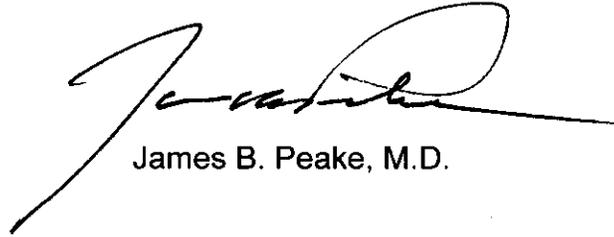
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- less than 90 days of continuous service. The provisions in section 3321(b)(3) present a problem for those individuals who become eligible after aggregating 90 days of active duty service or who are discharged for a service-connected disability after serving 30 days of continuous service.

The Office of Management and Budget has no objection to transmission of this letter with respect to the program of the President.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'James B. Peake', with a large, stylized flourish extending from the end of the signature.

James B. Peake, M.D.